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## TABLE OF CONTENTS

Vol. 18, No. 1

January, 1935

	Page
Rapides Parish, Louisiana, A History, X, <i>by G. P. Whittington</i> .....	5
Some Distinguished Hispano-Orleanians, <i>by John Smith Kendall</i> .....	40
The Origin and Early Development of County-Parish Government in Louisiana, <i>by Robert Dabney Calhoun</i> ..	56
Editorial Change .....	160-a
Records of the Superior Council of Louisiana, LXII, <i>by Heloise H. Cruzat, Marginal Notes by Henry P. Dart</i> ...	161
Index to the Spanish Judicial Records of Louisiana, XLIV, <i>by Laura L. Porteous, Marginal Notes by Henry P. Dart</i>	193

# TABLE OF CONTENTS

1	Introduction
2	Chapter I. The History of the United States
3	Chapter II. The Constitution of the United States
4	Chapter III. The Federal Government
5	Chapter IV. The State Governments
6	Chapter V. The Local Governments
7	Chapter VI. The Judiciary
8	Chapter VII. The Executive
9	Chapter VIII. The Legislative
10	Chapter IX. The Administration
11	Chapter X. The Finance
12	Chapter XI. The Education
13	Chapter XII. The Religion
14	Chapter XIII. The Social
15	Chapter XIV. The Literature
16	Chapter XV. The Art
17	Chapter XVI. The Science
18	Chapter XVII. The Industry
19	Chapter XVIII. The Commerce
20	Chapter XIX. The Transportation
21	Chapter XX. The Communication
22	Chapter XXI. The Defense
23	Chapter XXII. The Foreign Relations
24	Chapter XXIII. The International Law
25	Chapter XXIV. The International Relations
26	Chapter XXV. The International Cooperation
27	Chapter XXVI. The International Organization
28	Chapter XXVII. The International Conference
29	Chapter XXVIII. The International Treaty
30	Chapter XXIX. The International Convention
31	Chapter XXX. The International Agreement
32	Chapter XXXI. The International Understanding
33	Chapter XXXII. The International Accord
34	Chapter XXXIII. The International Arrangement
35	Chapter XXXIV. The International Settlement
36	Chapter XXXV. The International Adjustment
37	Chapter XXXVI. The International Conciliation
38	Chapter XXXVII. The International Arbitration
39	Chapter XXXVIII. The International Mediation
40	Chapter XXXIX. The International Reconciliation
41	Chapter XL. The International Peace
42	Chapter XLI. The International Security
43	Chapter XLII. The International Stability
44	Chapter XLIII. The International Order
45	Chapter XLIV. The International Harmony
46	Chapter XLV. The International Unity
47	Chapter XLVI. The International Solidarity
48	Chapter XLVII. The International Fellowship
49	Chapter XLVIII. The International Brotherhood
50	Chapter XLIX. The International Sisterhood
51	Chapter L. The International Fraternity
52	Chapter LI. The International Amity
53	Chapter LII. The International Concord
54	Chapter LIII. The International Accordance
55	Chapter LIV. The International Accordance
56	Chapter LV. The International Accordance
57	Chapter LVI. The International Accordance
58	Chapter LVII. The International Accordance
59	Chapter LVIII. The International Accordance
60	Chapter LIX. The International Accordance
61	Chapter LX. The International Accordance
62	Chapter LXI. The International Accordance
63	Chapter LXII. The International Accordance
64	Chapter LXIII. The International Accordance
65	Chapter LXIV. The International Accordance
66	Chapter LXV. The International Accordance
67	Chapter LXVI. The International Accordance
68	Chapter LXVII. The International Accordance
69	Chapter LXVIII. The International Accordance
70	Chapter LXIX. The International Accordance
71	Chapter LXX. The International Accordance
72	Chapter LXXI. The International Accordance
73	Chapter LXXII. The International Accordance
74	Chapter LXXIII. The International Accordance
75	Chapter LXXIV. The International Accordance
76	Chapter LXXV. The International Accordance
77	Chapter LXXVI. The International Accordance
78	Chapter LXXVII. The International Accordance
79	Chapter LXXVIII. The International Accordance
80	Chapter LXXIX. The International Accordance
81	Chapter LXXX. The International Accordance
82	Chapter LXXXI. The International Accordance
83	Chapter LXXXII. The International Accordance
84	Chapter LXXXIII. The International Accordance
85	Chapter LXXXIV. The International Accordance
86	Chapter LXXXV. The International Accordance
87	Chapter LXXXVI. The International Accordance
88	Chapter LXXXVII. The International Accordance
89	Chapter LXXXVIII. The International Accordance
90	Chapter LXXXIX. The International Accordance
91	Chapter LXXXX. The International Accordance
92	Chapter LXXXXI. The International Accordance
93	Chapter LXXXXII. The International Accordance
94	Chapter LXXXXIII. The International Accordance
95	Chapter LXXXXIV. The International Accordance
96	Chapter LXXXXV. The International Accordance
97	Chapter LXXXXVI. The International Accordance
98	Chapter LXXXXVII. The International Accordance
99	Chapter LXXXXVIII. The International Accordance
100	Chapter LXXXXIX. The International Accordance
101	Chapter LXXXXX. The International Accordance



# THE LOUISIANA HISTORICAL QUARTERLY

Vol. 18, No. 1

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## RAPIDES PARISH, LOUISIANA—A HISTORY

By G. P. WHITTINGTON

### TENTH INSTALLMENT

(Continued from October, 1934, Quarterly)

#### CHAPTER XVI

##### THE UNION ARMY PAYS ITS FIRST VISIT TO RAPIDES

The United States Army, under the command of General Nathaniel P. Banks, made two raids up Red River to Alexandria and beyond. The first was in May, 1863, and the second in April and May, 1864.

General Richard (Dick) Taylor was in south Louisiana along the Teche with about three thousand men, causing the Federal Commander a great deal of worry. Port Hudson on the Mississippi had been fortified and garrisoned to the extent that it was a very strong position with possibilities of commanding the river. Grant was in front of Vicksburg trying to capture the army within its fortifications, and Banks was assigned the task of reducing Port Hudson. Before he could take up this work he concluded that General Taylor, who was giving him a great deal of trouble, must be captured and his army dispersed. The attempt to capture this little band of men was not successful, but Taylor was compelled to retreat, just ahead of the Union Army until after Alexandria was reached and captured. Fort DeRussey had been built on Red River in Avoyelles parish to command Red River, but when the gunboats under command of Porter came up the river and the army under Banks advanced up Bayou Boeuf and Bayou Robert, the garrison of the fort abandoned their works, removed the guns above Alexandria,

and left the way open for Admiral Porter to steam up the river without firing a gun. Porter and his gunboats reached Alexandria before Banks could march from Opelousas, and to him fell the honor, if honor it was, of capturing the town. Porter had under his command the gunboats: Benton, Lafayette, Pittsburgh, Price, Arizona, Estrelle; the ram, Switzerland; and the tug, Ivy. The negroes flocked to town upon the arrival of the Federal fleet, but they were not permitted to stay, and were ordered out of town. However, when the army finally arrived, they came back in numbers and were welcomed with open arms by the General and his men.

Alexandria, in those days as it had been in the past and was destined to be for a number of years to come, was at the head of navigation on the river for many months of the year. Here the Confederates had concentrated supplies, and had built and were operating a packing plant where the cattle supply from Texas could be turned into pickled beef for the eastern armies. A foundry and machine-shop of no small proportions, and in fact the only one in the State south of Shreveport, in the hands of the Confederate authorities, was also located here. A ship-yard where steamboats had been converted into gunboats was located above the falls, and the town was on the main roads leading to the rich valley of the river in North Louisiana and East Texas with its vast cotton fields and cattle ranches. The ram, "Webb," was in the river at this time, being put in condition for future use.

A conference was held between General Banks and Admiral Farragut, where it was decided that the capture and destruction of the machinery and public works at Alexandria would do far more good than any other blow that could be dealt the Confederacy, west of the Mississippi. Admiral Porter with a fleet of gunboats was the Navy's contribution; the 19th Corps was that of the Army. The generals in command of the various units of this corps were Franklin, Augurs, Thomas W. Sherman, Weitzel, and William Dwight, Jr., the last named being from the State of New York.

Porter arrived in front of Alexandria on the morning of May 9, 1863, received the surrender of the town from Mayor Legras, and soon had the Union flag once more flying over the town. The army under Banks left Opelousas on the evening

of May 5th and part of the forces reached Alexandria on the evening of the 9th. They had marched up Bayou Boeuf through Cheneyville and the present town of Lecompte. Banks arrived some time later. This army did not bring a commissary with it, but depended upon the country they were invading to supply it with the necessary food for man and beast. Foraging parties over-ran the alluvial or bottom lands of the parish, confiscating horses, mules, cattle, hogs, food stuff, and forage for the animals. The fact that it was the all of a woman and dependent children meant nothing to these men. Their wants came first. They did not confine themselves to taking food, for they took anything they could find that they wanted or concluded had a value.

Banks seemed to fear the army that he had "dispersed and destroyed," for the first thing he did after reaching Alexandria was to have earthworks built around the town for the protection of his army.

The cattle, hogs, and sheep used by the army for food were butchered in the open fields, just outside the limits of the town. Such part of the carcass as was desired was taken, the other was "left to decay in the summer sun, till the whole atmosphere became impregnated with a disgusting and sickening odor. Millions of flies filled the streets like an Egyptian plague." What prevented this section being visited with some terrible disease is known only to God, and was not due to the Northern army.

The expedition was a failure. The Confederate boats were run above the falls where Porter's boats could not follow. The Confederate guns and machinery had been removed to Shreveport and Grand Ecore, and all that fell into the hands of the invaders was the empty buildings.

General Godfrey Weitzel was sent above Alexandria to Cane River at Monnette's Ferry. Banks says he went to Grand Ecore, but this is doubted and does not concern us. As Weitzel retreated or fell back to Alexandria, he found that all of the Confederates were not above him, but that a part of Lane's Texans were between him and the main army at Alexandria. As a result there was a skirmish at Judge Boyce's plantation where he left a number of dead and wounded. He continued his march to Alexandria where he joined Banks' army and on the 15th day of May the enemy began leaving the town, the last troops moving out on the 17th of May. Part of the army followed down the river to Simmesport, while Weitzel and his command marched



by way of the bayous and Cheneyville. At Cheneyville, Weitzel received another visit from Lane's Texans who had marched around Alexandria and placed themselves across the path of the Union Army at this point, with the result that some two hundred of his men were killed or captured. This ended the fighting in Rapides for the year 1863.

The expedition was an economic success. The slaves were demoralized. The Union soldiers, in many cases, had never seen a negro in their lives and they could not understand the relation of the two races. They mingled and associated with them, sharing their quarters and in many instances treated them as social equals. It has been charged that this association extended even to the higher officers, even reaching to the rank of Brigadier General, as in the case of Brigadier General Dwight. Where the owner of the plantation had abandoned his property, as was the case with some, the soldiers told the negroes that the property was theirs and they proceeded to act accordingly. In some cases, upon the return of the owner he found that the furniture from his home was in the cabins, that the store room and meat houses had been cleaned, and that beeves and hogs without number had been slaughtered. Some four thousand slaves followed the army, taking with them the choice wagons and teams. Some of the slaves who remained at home became ungovernable, and in some cases drove the white people out of their homes. This resulted in the negroes suffering. Those who had been guilty of such offenses were severely punished. Those who followed the army suffered as much, for as soon as the novelty wore off, their new-found friends abandoned them to make the best of their new situation. Some starved, some contracted diseases that resulted in their death, and others were forced into the Union army.

Farming operations were almost broken up in the alluvial lands. Teams had been stolen, and there were not enough men left on the plantations to properly work the crops. In many instances the fences had been destroyed and the cattle let into the cultivated fields. The people tried to make the best of the situation with what they had. Some negroes returned; but when they were not in the mood to work, they refused, and when punished they ran away at the first opportunity. Of course, there were some who were loyal and stood by their master and his family to the end.<sup>1</sup>

<sup>1</sup> *Louisiana Historical Quarterly*, Vol. 14, (Oct., 1931), pp. 487-502.

There was one unfortunate incident in this expedition that resulted in much hard feeling and some loss of life. General Dwight had a brother serving as a staff officer on the staff of Banks. This Captain Dwight attempted to escape from capture after having agreed to surrender. In his flight he was killed. This greatly infuriated the General, and the first Confederate soldier captured was shot without trial. This man was R. H. Glaze of Cheneyville. Not satisfied with the death of this man, he threatened to hold the community responsible unless the guilty man was surrendered. Some eight or nine men were arrested and sent to New Orleans, among the number being Drs. Luckett and Marshall. These men were threatened with death, but eventually were returned to their homes. This act of Dwight resulted in a band of the friends of Glaze refusing to take prisoners in the future. Dwight had executed a member of his command without trial for some infraction of discipline, and as a result an order was issued from headquarters forbidding the execution of men in the future without trial and without the approval of the General commanding. Dwight attempted to justify his act by charging that his brother was murdered after he had surrendered.

When the Union army reached Alexandria most of its citizens had moved beyond its limits, but there were enough left to extend to the Army and Navy a hearty welcome. Some were so attentive that Banks feared for their safety after he had returned to New Orleans, and he suggested that they go back with him. Among this number was James Madison Wells who was to become the Governor of the State of Louisiana. Another was the Honorable William B. Hyman, whom Wells named as Chief Justice of the Supreme Court of the State, and still another was C. W. Boyce, who had edited the Constitutional and other papers in Rapides and was to become the president pro-tem of the State senate in 1864.

General Taylor, with his army of Louisiana and Texas troops, was soon in south Louisiana annoying the Union forces, and there he remained until the next year when Banks made his second raid up Red River. The better part of the soldiers under Taylor were the men under the commands of Generals Walker and Green. Green was in command of the cavalry in south Louisiana during 1862, 1863, and until his death in 1864. Walker's troops were about as welcome as the Union Army to the citizens

of the part of the State in which they operated. They committed almost as many depredations as the enemy, with the exception of General A. J. Smith and the 16th and 17th Army Corps that were loaned by Sherman for the second expedition. Of these last we shall have more to say in the future. Blessington, in his history of Walker's Division, bears out this statement. These Texas men were good soldiers, brave and daring, and as fearless as one could desire, but they would confiscate property as badly as any Union soldier who ever served in this section.

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## CHAPTER XVII

### BANKS MAKES ANOTHER RAID UP RED RIVER

The second expedition, after its failure as a military expedition, became an orphan. No one wanted to claim the authorship of its origin. It was a success as far as concerned the cotton obtained, the damage done to the country, the suffering imposed, and the hatred left in the minds of the people of Central Louisiana.

General Thomas Kilby Smith says in his *Memoirs*, (page 132):

"It has been a mystery to me, save from what transpired in route. In my mind I came to the conclusion that it was what would be called in military parlance a mercantile expedition; that is, an expedition for the purpose of opening the country to trade, or, perhaps, taking advantage of a victorious march to gather up what might naturally fall to the army as spoils. The facts that lead to that opinion was the presence of bagging and rope in large quantities on transports, and the fact that upon one occasion when I was assigned to the transports, the quartermaster refused to give me certain room which was required for some troops on the grounds that the space had been assigned for cotton."

This was a joint expedition of the army and navy. Porter was in command of the fleet and Banks of the army. The object was to capture the Red River Valley and East Texas with their rich stores of cotton and cattle; to drive the Confederates out of these sections so that a political government loyal to the Union could be established; and to obtain such cotton as could be readily



found. A government had been organized in South Louisiana, and a man accompanied this expedition who had been appointed "governor" of Texas.

Porter, with the assistance of General A. J. Smith of Sherman's Army, reduced and captured Fort DeRussey. The other portion of the Army under the command of General Banks marched overland, coming as in the previous expedition along Bayous Boeuf and Robert. As in the preceding expedition, the gunboats of the navy arrived at Alexandria before the main portion of Banks' Army and had to await his coming.

Admiral Porter arrived at Alexandria on the 16th day of March, 1864, with a fleet of twenty gunboats and a number of transports. Of this number, thirteen were ironclads bearing the names of Eastport, Essex, Benton, Lafayette, Choctaw, Chilli-cothe, Ozark, Louisville, Carondelet, Pittsburgh, Mound City, Osage, and Neosha, while the seven light-draft gunboats were given the names of Ouachita, Lexington, Fort Hindman, Cricket, Gazelle, Juliet, and Black Hawk. The names of the transports are unknown. This was indeed a powerful fleet of gunboats bent on the capture of an unprotected country. Part of the famous 16th and 17th Corps of Sherman's Army accompanied this fleet and were soon in possession of the town and surrounding country.

For eight days they awaited the coming of the Commanding General and his army. The advance guard of Banks' army, under the command of Brigadier General A. J. Lee, reached Alexandria on March 24th. Banks reached headquarters that evening, and the main portion of his division arrived on the 25th and 26th. The river was rising and on the 29th soundings revealed that the large gunboats could cross the rapids without danger of going aground. On this day fourteen of the boats started upon their trip towards Shreveport, and the army took up its line of march for the northern part of the state and, as was generally thought, East Texas. The gunboats Essex, Benton, Lafayette, Choctaw, Ouachita, and Gazelle were left in front of Alexandria and below the rapids.

A supply department or Quartermaster depot was established at Alexandria, with Brigadier General Culver Grover in command. The water over the falls or rapids was not sufficient to permit the passage of the heavily-laden transports with safety, and it was found necessary to unload these boats below the rapids, haul this freight by wagon around this impediment to navigation,

and reload it on smaller vessels above the rapids. This haul was about a mile and a half and caused considerable delay. Large warehouses were called into use, and in order properly to protect this depot and the supplies it contained, earthworks were constructed around the town and thoroughly fortified. Alexandria now became an armed camp. A pontoon bridge was constructed between Alexandria and Pineville so that there would be ready communication between the forces stationed on each side of the river. The Louisiana State Seminary was occupied by a part of Sherman's Old Command, with General T. Kilby Smith in command. It is said that the records, books, and instruments that were found in the building of this institution were packed and sent away under the orders of this officer. Some of the books however seem to have found their way into the possession of some of the lesser officers and men who were busy picking up whatever they could find of value that might serve as souvenirs. It is only recently that the Louisiana State University, the successor of the Seminary, has received a copy of the Works of President George Washington, that had formerly belonged to the Seminary and had been removed by an officer stationed there during the war. The story told is that this officer had sent them away to prevent their being destroyed, and that it had been his intention for these many years to return them to the proper authorities. However, the execution of this intention had been postponed by one event or another until his death, and his sons having found them carried out his wishes. Others have not had this remorse of conscience and the other volumes of the library have not reached their former owners.

As the Union soldiers advanced, the Confederate Army retreated. Their rear guard was constantly just out of gun-shot range of the enemy, watching and keeping their commander advised of the movements of the enemy. Part of this rear guard was the 2nd Louisiana Cavalry, under the command of Colonel Vincent. They camped at Henderson's Hill near the present town of Boyce. They were exceedingly careless and it appears did not post pickets at night, believing that the enemy would not venture out that far from his base. General Mower, learning of the location of this command, sent out a detachment at night, completely surrounded their camp, and effected the capture of this entire command without the firing of a single gun. The Colonel succeeded in escaping, but left in the hands of the enemy some two

hundred and fifty men with their horses and the better part of General Taylor's light artillery.

General Richard (Dick) Taylor was unable to withstand the advance of the Union Army which was more than three times as large as his command. They were well fed, well equipped, armed with the latest style guns, amply supplied with ammunition, and with a full train that contained ample food supplies and medicines. Hospital boats were in the river trying to keep abreast of the advancing army, so that the sick and wounded could receive the best of medical attention. On the other hand, the Confederate army was made up of men who were serving without pay, supplying their own horses and arms, using such ammunition and arms as from time to time they might capture, depending upon the country through which they marched for food for the men and beasts. They had no tents to cover and protect them from the elements, no baggage or baggage train, no hospital equipment or supplies, and not many doctors. Their nurses were the best in the world, the women of the southland.

The Union Army marched on into the parish of Natchitoches, and then into DeSoto, as you well know. Taylor retreated until near Mansfield or Sabine Crossroads, as the Union Army called it. Here the advance ended, and it was but a few days until the retreat of Banks began with Taylor in pursuit. From a retreat it became a rout on the part of the Union soldiers in their headlong rush to reach the protecting guns of the fortifications that had been built around Alexandria.

Red River has always been a very contrary stream. It rises when it should be falling, and falls when by all rules it should rise. It will sometimes rise in the spring, at others in the summer and fall. It does not follow the habits of other rivers of always rising in the spring and early summer. Sherman, who had lived for a short time on its banks in this parish, had learned much of its habits by observation and by talking with the people who had spent their lives in this community. He opposed the trip of the fleet under Porter for the reason that he knew that a stage of water could not be depended upon. When Porter's fleet reached Alexandria it could not proceed towards Shreveport for lack of water over the falls. These boats required seven feet of water, and the sounding showed that there was hardly three and a half feet in the main channel. The river was rising and after nine



days of waiting there was sufficient water to permit the passage of the heavy iron-clad gunboats and the forward movement began.<sup>2</sup>

When the Union Army was in Alexandria in 1863, they captured maps of the river that had been made by the Confederate forces, showing the soundings and locations of the main channel through these rapids. This was of great assistance to them in their second expedition.

As the boats steamed up the river, coal gave out and the men who accompanied the fleet in the transports were sent in search of wood. The rail fences around the farms furnished the principal supply. The fleet had a hard time keeping pace with the army, and when Grand Ecore was reached the river began falling. The army was retreating and the troubles of the navy began. Part of the fleet was lost or destroyed. The remainder finally reached a point about two miles above Alexandria only to find that the river, so to speak, had run out and left them stranded above the falls.

From all accounts, the Union Army was never so badly handled that it could not have repelled the attacks of the Confederates and marched on to Shreveport and East Texas. General Andrew J. Smith wanted to advance, but, for some reason that will never be known, General Banks ordered the army to fall back to the base at Alexandria. Banks was within forty miles of Shreveport, Steel in Arkansas was more than one hundred miles away and retreating to Little Rock. General E. Kirby Smith withdrew Walker's Texas Division from in front of the enemy at Mansfield and sent it to Arkansas to hunt for Steel, thus weakening General Taylor so that he was unable to follow up and attack Banks' army. Banks thus was permitted to retire at pleasure.

Taylor blamed Kirby Smith for the escape of Banks and his army, and the Union fleet under Porter. He said that General Kirby Smith had held a protecting arm around Banks and the Union Army during the entire Red River Campaign.

Generals Wharton, Green, Lane, and Parsons, with the Texas troops, and General Polignac with the Louisiana men, followed close on the heels of the retreating Federals, attacking wherever it was possible and never giving them any peace. Small

<sup>2</sup> War of the Rebellion, Banks' Report, Series 1, Vol. 34, pt. 1, p. 181.

engagements took place at the Boyce Bridge, at General Graham's place on Bayou Rapides, at Middle Bayou, and along Bayou Boeuf, as well as a few skirmishes on the north side of the river near Pineville. Lane and his command passed around Alexandria, going through the pinewoods in the western part of the parish, and attacked the transports in the river below Alexandria, destroying one boat and damaging others. It also attacked the army as it retreated into Avoyelles and on to south Louisiana.

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## CHAPTER XVIII

### BAILEY'S DAM IN RED RIVER

The rapids or falls as they were called, were located above the junction of Bayou Rapides with Red River, just above the towns of Alexandria and Pineville. There were two distinct rapids: the lower, just above the mouth of Bayou Rapides, extending up and down the river for some 600 feet; the other, about three quarters of a mile further up stream, with an extent of some 400 feet. The chute or channel of the lower rapids had a fall in extreme low water of about ten feet, while the chute of the upper rapids was about six feet. In high water these rapids entirely disappeared or were covered with water. The channel was very narrow and lined on each side with projecting jagged rocks. The current in low water reached a velocity of from ten to twelve miles per hour.

When Porter reached Alexandria on his return trip from up the river, he found that "the river had run out on him" and there was not over three feet of water over the falls, while he needed a depth of seven feet to float his gunboats and transports. The fleet was stranded, as it were, and either the army and navy must remain at Alexandria until the river saw fit to rise, the boats must be destroyed as had been the case with "Eastport," one of the largest ironclad gunboats, which was destroyed above the parish line to prevent them from falling into the hands of the Confederates, or else some other way must be found to save the fleet.

Some means to save the fleet was sought. Lieutenant-Colonel Joseph Bailey of the 4th Wisconsin Cavalry, then serving on the staff of General John Franklin, submitted a plan for raising the water over the falls and releasing the fleet. The project was

first submitted to General Franklin, who in civil life was an engineer of distinction, was by him approved, and then submitted to General Banks who gave the necessary order to carry out the plan.

Bailey was born in Wisconsin. Prior to the war he was a lumberman in his native state; engaged in running logs down the river to the mills. He entered the army as a member of the 4th Wisconsin Cavalry. Later he was transferred to the engineering corps under General Franklin. He was not an educated engineer and the principle he used in constructing the Red River dam was nothing new or original, but simply a device known to all lumbermen and constantly used by the river men of his section to release logs that had been caught above shallow places in the streams. It had been used by him on Thompson's Creek above Port Hudson, and on the upper part of Red River to release the "Eastport." It was simply building wing dams from the banks of the river to force the water into a narrow stream and cause it to rise above the dams and thus permit something to float.

This work was not entirely the plan of Bailey. Colonel George D. Robinson, of the 3rd Engineers Corps d'Afrique, and Lieutenant-Colonel Uri B. Pearsall, of the 99th U. S. Colored Troops, were both called into consultation with Bailey. They advised in favor of two dams, one at the upper falls and the other at the lower falls. This advice was over-ruled by Bailey, who was the superior officer, and only one dam was built. Later another had to be built as suggested by these men.

Bailey received the credit for saving the fleet, was made a Brigadier-General and given a vote of thanks by Congress. The other two men passed out of the army with the rank they held at the time of the building of the dam.

Wisconsin has caused to be painted in her state capitol building a picture of Bailey and the Wisconsin lumbermen saving the fleet at Alexandria, but they neglected to put into this picture the men from Maine and the negro troops that did the greater part of the rough work.

Banks, in his report of the expedition, says: "The Engineers of the Army had complete surveys of the falls, captured from the Confederates during our occupation of Alexandria in 1863 . . . . It was found, upon examining these charts and upon survey of the river, that the channel was narrow and crooked, formed of solid rock and that it would be impossible to deepen its bed."



The account of the dam and its construction given by Lieutenant-Colonel Richard B. Irwin, Assistant Adjutant-General, Department of the Gulf, in "Battles and Leaders of the Civil War," with a few statements of Lieutenant-Colonel Pearsall and others, will give a clear account of the work done and the results accomplished.

Colonel Irwin said:—

"In the month that had elapsed since the fleet had, even then with some difficulty, ascended the rapids, the river had fallen more than six feet; for a mile and a quarter the rocks were bare; there was but three feet four inches of water, the gunboats needed at least seven feet; and in some places the channel, shallow as it was, narrowed to a mere thread. The current ran nine miles per hour, the total fall was thirteen feet, and at the point just above the lower chute, where Bailey proposed to construct his dam, the river was 758 feet wide, with a fall of six feet below the dam. The problem was to raise the water above the dam 7 feet, backing it up so as to float the gunboats over the upper falls. From the north (left descending or Pineville side) bank a wing dam was constructed of large trees, the butts tied by cross logs, the tops towards the current, and kept in place by weighting with stone, bricks and brush. From the cultivated south bank (right descending or Alexandria side) where large trees were scarce, a crib was made of logs and timber, filled in with stone and with bricks and heavy pieces of machinery taken from the neighboring sugar houses and cotton gins. The space of about 150 feet between the wing was closed by sinking across it four of the large coal barges belonging to the navy. The work was begun on the 30th of April and finished on the 8th of May. The water having thus been raised five feet four inches, three of the light-draught boats passed the upper falls on the 8th. On the morning of the 9th the tremendous pressure of the pent-up water drove out two of the barges, making a gap 66 feet wide, and swung them against the rocks below. Through the gap the river rushed in a torrent. The Admiral at once galloped around to the upper falls and ordered the "Lexington" to run the rapids. The first gun boat to go through carried against the ledge of rock and striking the side of the barge caromed off down stream, but for these barges, she would doubtlessly have been sunk, most seriously obstructing the channel against the passage of the others. With a full head of steam she made the plunge, watched with breathless silence of suspense by the army and fleet,

and greeted with a mighty cheer as she rode in safety below. The three gunboats (Osage, Neosho, and Fort Hindman), that were waiting just above the dam, followed her down the chute; but six gunboats and two tugs were still imprisoned by the falling waters.

"So far Bailey had substantially followed the same plan that had worked so successfully the year before at Port Hudson, but it was plainly to be not altogether applicable against such a weight, volume and velocity of water as had to be encountered here. He, therefore, promptly remedied the defect by constructing three wing dams at the upper falls; a stone crib on the south side, a tree dam on the north side; a bracket dam, made of logs raised at the lower end on trestles and sheathed with plank. Thus the whole current was turned into one narrow channel, a further rise of fourteen inches was obtained making six feet six and a half inches in all; and this new task, by incredible exertions, being complete in three days and three nights, on the 12th and 13th the remaining gun-boats passed free of the danger."<sup>3</sup>

"Banks had placed at the disposal of Colonel Bailey all the force he required, consisting of some 3000 men and 200 to 300 wagons and teams. All the neighboring steam mills and brick buildings were pulled down and the material used in the cribs. Two regiments of Maine soldiers were set to work felling trees. Trees were falling with great rapidity; teams were moving in all directions bringing bricks and stone; quarries were opened, flat boats were built to bring stone down from up the river.

"Words are inadequate to express the admiration I feel for the abilities of Lieut.-Col. Bailey . . . Leaving out his ability as an engineer, the credit he has conferred upon the country, saved to the Union a valuable fleet worth nearly two million dollars or more; he deprived the enemy of the triumph which would have emboldened them to carry on this war a year or two longer, for the intended departure of the army was a fixed fact, and there was nothing left for me to do in case that event occurred but destroy every part of the vessels, so that the rebels could make nothing of them."<sup>4</sup>

What might have been the result had General Taylor been able to follow up his success at Mansfield as he desired?

Lieutenant-Colonel U. B. Pearsall was placed in charge of all the work on the south bank of the river, together with the build-

<sup>3</sup> Colonel Richard B. Irwin, "The Red River Campaign", in *Battles and Leaders of the Civil War*, Vol. 4, p. 358.

<sup>4</sup> Admiral Porter, "Report", in *War of the Rebellion*, Series 1, Vol. 34, pt. 1, p. 219.

ing of the crib dam and the sinking of the flat boats or barges in the middle of the river. His account of the work done after the first dam gave way gives a better idea of this work than the article of Lieutenant-Colonel Irwin, quoted above. He says:

"At seven o'clock on the morning of the 9th, Col. Bailey directed me to leave a reliable officer in charge of tightening and repairing the remaining portion of the dam extending from the right bank, and then report to him, in person, on the same side of the river near the head of the falls, at which point he had decided to increase the depth of water by means of light wing dams thrown from each side. The forces, moved from the lower or main dam consisted of detachments from the various regiments and the pioneer corps of the 13th Army Corps. The new plan commenced with vigor, the troops being employed in constructing the same as originally proposed until the afternoon of the 10th, which completed a temporary obstruction, close to each side of the channel by means of light log cribs lashed together with ropes and filled with brush and bricks. This work raised about 14 inches of water.

"I will here state that in the meantime the gun-boat, "Chillicothe," had managed to work her way through. The "Carondelet" attempted to follow, but owing to the rapidity of the current, and also to the wing dams not being placed perpendicular to the direction of the channel, she was forced aside and lay with her bow close below the end of the wing dam extending from the left bank (north side), her stern being pointed down stream and pointing diagonally across the channel. Several attempts were made to haul her from this position, all of which failed, and the navy finally concluded her case a hopeless one and thought there was sufficient room alongside for the others to pass. The "Mound City" was accordingly ordered to try it, and grounded abreast of the "Carondelet." Five more iron-clads were still above them.

"Such in brief, was the position of affairs on the afternoon of the 10th of May, as Major-General Banks will doubtless remember having a conversation with Col. Bailey and myself at that time. It was at this crisis that Colonel Bailey asked me what could be done to relieve the boats. I replied in these words: 'If you will allow me to build a dam where I please, on my own plan, and give me the men and materials I require, I will agree to put a foot of water under those boats, (referring to the "Mound City" and "Carondelet"), by to-morrow night.' He asked me what I required, and I told him the pioneer corps of the



13th Army Corps to report to me at mid-night to cross to the left bank (north side), and that 10,000 feet of 2-inch plank should be there at nine o'clock the next morning. Col. Bailey agreed to this proposition, and accordingly about 1 a. m. of that night Col. Hutchens, commanding the pioneers, reported to me for duty. Immediate steps were taken to get across the river. I hailed every boat in the fleet to obtain cutters for this purpose, but the reply of all was 'wait until daylight.' We were accordingly forced to do so, and it was sunrise before all were across to the opposite side. I immediately instructed the men in building two-legged trestles for a "bracket-dam." They worked with even greater energy than ever before, and all of the trestles were made by 9 a. m. Some pieces of iron bolts (size one half inch) were procured and one set into the foot of the legs of each trestle; also one in the cap piece at the end resting on the bottom, up stream. The place selected by me for this "bracket dam" was at a point opposite the lower end of the "Carondelet," extending out close to this vessel from the left bank. A party of men, selected and headed by myself, placed these trestles in position there under very adverse circumstances, the water being about 4½ feet deep and very swift, and coupled with a very slippery bottom making it almost impossible to stand against the current. Several men were swept away in this duty, but no lives lost. The trestles were fastened as soon as they were in position by means of taking "sets" and driving the iron bolts above referred to down into the bottom. All were in position by 10 a. m. and the planks having arrived, all that remained was to place them. This was done in less than an hour, and by 11 a. m. there was at least a foot of water thrown under the "Mound City" and the "Carondelet" and both vessels floated off easily before the ultimate height of water was obtained . . . .

"Hawsers were run out from the gunboats to the shore, and these manned by a brigade; and the united force of three thousand men, enlivened by bands playing, dragged them over the bottom until they floated in the deep water below, and both army and navy breathed more freely upon seeing them anchored in the stream below Alexandria."<sup>5</sup>

"While the work (of building the dam) was in progress, the side armor was stripped from the larger iron-clads, taken up the river after nightfall, and dropped in deep holes, while the lighter guns, 32 pounders, some dozen altogether, were put ashore . . . . On the morning of the

<sup>5</sup> *War of the Rebellion*, Series 1, Vol. 34, pt. 1, p. 254.

13th of May, I was dispatched to the upper falls to destroy the 32 pounders left behind, the army having already begun to march for the Mississippi."<sup>6</sup>

The fleet was safely over the falls and the army could now take up its march or retreat to south Louisiana. No one was satisfied, Banks was relieved of his command as soon as he reached the Atchafalaya, and General Canby placed in command. General A. J. Smith was disgusted because his troops arrived too late to join Sherman in his march to the sea. Everyone blamed the other for the failure of the expedition. The volume of "Reports of the United States on the Conduct of the War" is full of charges and counter-charges made by the officers of the Army and Navy as to who stole the most cotton while the expedition was at Alexandria.

On the Confederate side, General Taylor asked to be relieved from further service under General E. Kirby Smith, and he was succeeded by General John Wharton of Texas. Taylor crossed over to the east of the Mississippi and continued his service on that side of the river. General Smith moved into Texas whither he had previously sent his family, and there remained until the closing days of the War.

Thus ended the second expedition up Red River. Rapides was destined to remain free of further molestation from the Union Army until after peace had been declared.

Headquarters were once again established by the Confederates at Alexandria. General Wharton was succeeded by General Buckner and later by General Allen Thomas. The only work that was done by the troops that were posted near Alexandria was the construction of Forts Bulow and Randolph on the North side of the river just below the rapids. Had these forts been in existence in 1864, and properly armed and commanded, the Federal Fleet would have had a hard time passing up the river. These forts are now within the grounds of the Central Louisiana Hospital, near Pineville, Louisiana, and under the supervision of Dr. John N. Thomas, the former Superintendent, they were placed in a park with suitable markers to give their name and history.

Whenever given the least opportunity, General Banks held an election for some purpose or another, and while his army was

<sup>6</sup> T. C. Selfridge, "The Navy in the Red River Campaign", in *Battles and Leaders of the Civil War*, Vol. 4, p. 365.

at Alexandria waiting for the river to rise so that the fleet could proceed up the river, he caused an election to be held to select delegates to a Constitutional Convention to be held within the Union lines at New Orleans. Rapides was entitled to four delegates or members, and after the election he declared that 300 votes had been cast by the *loyal citizens* of the parish and that M. R. Ariail, A. Cazabat, J. H. Newell, and Thomas M. Wells had been selected as the delegates from this parish. Banks, in his report, stated that this election was held at the request of the citizens and that the 300 voters who took part in the election was a majority of the votes of the parish.<sup>7</sup> The delegates selected, all journeyed to New Orleans and took part in the deliberations of the Constitutional Convention of 1864. Ariail was present from the beginning of the Convention until June 13th, after which date he was marked absent without being excused. The other three remained until the end. However, Newell did not sign the famous document.<sup>8</sup>

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## CHAPTER XIX

### BURNING OF HOMES AND PUBLIC BUILDINGS IN AND AROUND ALEXANDRIA BY THE UNION FORCES, 1864

There has been a controversy over the question as to whether the Union Army was responsible for the destruction of the numerous homes and public buildings that were destroyed in the parish in 1864, during the time of the invasion by General Banks' army and at the time of his retreat after the Battle of Mansfield. The older citizens of this section, men and women who suffered losses at that time have always held that the Army of the United States was responsible for this destruction. Others, who had a higher belief in these men, were not so certain and were rather inclined to the belief that the fire was accidental and beyond the power of the soldiers to prevent. Having heard the stories of both sides, an attempt has been made to place the blame where it properly belongs and to this end evidence has been sought in many places. This we will now present as best we can. The evidence of officers and men of the Union Army, as well as that

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<sup>7</sup> *War of the Rebellion*, Series 1, Vol. 34, pt. 1, p. 254.

<sup>8</sup> Debates in the Convention for the Revision and Amendment of the Constitution of Louisiana, p. 5 ff.



of residents of this section, Confederate soldiers, and officials of the State Government will be submitted for your consideration and as authority for conclusions drawn.

While the Army and Navy of the United States was busily engaged in releasing the fleet of gunboats under the command of Admiral David D. Porter, from its imperilled position above the falls in Red River just above Alexandria, the whole country surrounding the town for a distance of more than ten miles in every direction was trampled over by detachments of the contending armies. The line of the retreat of the Federals was marked by the destruction of property of every kind.<sup>9</sup>

The blackened chimney was the mute reminder of where a home had once stood. Mills, gins, barns, cabins, fences, and all kinds of improvements, on the farms and plantations, had suffered a similar fate. Stores, public buildings (court house and town hall), churches, schools, and homes in the town had been reduced to ashes.

The idea that this was the work of some irresponsible soldier or straggler is not correct. The thought had been in the minds of the western troops for some time, as will be readily seen from the following statement of General T. Kilby Smith, in a letter to his mother, dated Alexandria, La., March 24, 1864.

"The inhabitants hereabout are pretty tolerably frightened. Our Western troops are tired of shilly shally, and this year will deal their blows very heavily. The people will now be terribly scourged. Quick, sharp, decisive, or if not decisive, staggering blows will soon show them that we mean business."<sup>10</sup>

This letter was written before the defeat at Mansfield and the trouble had at the falls. Prospects of success were never so bright and the whole army was in high spirits. The destruction came as they were retreating, loaded with plunder confiscated by the army, stolen by the men.

Rumors of the contemplated burning of the town had filtered through the camp and town. The citizens had appealed to the General in command for assistance and protection. At this time there was a large number of people in the town who had seen

<sup>9</sup> Statement of Major Frederick Seip, a member of the first Confederate forces to reach Alexandria after the withdrawal of the Union army. These facts were also told me by my father, W. W. Whittington, also a member of this detail.

<sup>10</sup> General T. Kilby Smith, *Memoirs*, p. 362.

fit to abandon their allegiance to the South and Louisiana, and had taken the oath of allegiance to the United States. There were others who had never been loyal to the South. The property of all alike was in danger of destruction. A Union soldier who served under Banks and Sheridan wrote:

"Rumors were freely circulated throughout the camp at Alexandria that upon evacuation, the town would be burned. To prevent this destruction of property, part of which belonged to loyal citizens, General Grover, commanding the post, was ordered to provide for its occupation by an armed force until the army had marched for Simmsport. . . . On the morning of the evacuation, while the army was in full possession of the town, a fire broke out in a building on the levee which had been occupied by soldiers, in such a manner as to make it impossible to prevent a general conflagration."<sup>11</sup>

In response to stories of robbery and rumors of threatened burning of the town, the following General Orders were issued:

"Headquarters 19th Army Corps, Alexandria, La., April 27th, 1864.

"The advance of the Army in its march from Grand Ecure to this place having been accomplished by indiscriminate marauding and incendiarism, disgraceful to the army of a civilized nation, and no clue having hitherto been found by which guilty parties can be detected, a reward of \$500 is hereby offered for such evidence as will convict the accused of incendiarism before a general court martial, to be paid the person furnishing the evidence upon the conviction of the accused.

By order of Major-General Franklin,  
Wickham Hoffman, Asst.-Adt. General"<sup>12</sup>

And the other read as follows:

"Headquarters, Department of the Gulf,  
Alexandria, La., May 9th, 1864.

Brigadier-General R. Arnold, Chief of Cavalry.  
General:

You are hereby directed to detail a force of 500 men from your command to protect the town of Alexandria when the army shall leave its present position, and to bring up the rear guard, taking every precaution possible

<sup>11</sup> Frank A. Flinn, *Campaigning with Banks and Sheridan*, p. 144.

<sup>12</sup> *War of the Rebellion*, Series 1, Vol. 34, pt. 3, p. 307.

to prevent any conflagration or other acts which would give notice to the enemy of the movements of the army. Officers of responsibility and character should be selected for this duty, and they should be notified that they will be held responsible for the acts of the men under their command. They will occupy the town until all persons connected with the army have left it, and then cover the rear of the column on its march,

Very respectfully, your obedient servant,  
George B. Drake, Asst. Adt.-General"<sup>13</sup>

Before the army left Alexandria, fire broke out in a number of places in the business section of the town, and the testimony of people who were present states that it rapidly was spread from one place to another until the work was completed. With the daily practice and experience that a great many of the soldiers of this army had acquired, it was easy to infer what the fate of the town would be.

A man from Massachusetts kept a diary of his experiences in the Union Army in the South and particularly, in Louisiana. This book was published long after the war in the piping days of peace, and the remarks are so pointed that a few extracts will be given. This man dated each statement so that we can identify the date and place.

"April 28, 1864. Night. A ring of fire surrounds Alexandria tonight. It is said our forces are working in and burning everything as they come."

"Friday, May 13, 1864. Eight miles below Alexandria. About daylight this morning cries of fire and the ringing of alarm bells were heard on every side. I think a hundred fires must have started at one time. We grabbed the few things we had to carry and marched out of the fire territory, where we left them under guard and went back to do what we could to help the people. There was no such thing as saving the buildings. Fires were breaking out in new places all the time. All we could do was help the people get over the levee, the only place where the heat did not reach, and where there was nothing to burn. Only the things most needed, such as beds and eatables were saved. One lady begged so for her piano that it was got out on the porch and there left to burn. Cows ran bellowing through the streets. Chickens flew out from yards and fell in the streets with their feathers scorching

<sup>13</sup> *War of the Rebellion*, Series 1, Vol. 34, pt. 3, p. 521.



on them. A dog with his bushy tail on fire ran howling through, turning to snap at the fire as he ran. There is no use trying to tell about the sights I saw and the sounds of distress I heard. It cannot be told and could hardly be believed if it were told. Crowds of people, men, women, children and soldiers, were running with all they could carry, when the heat would become unbearable, and dropping all, they would flee for their lives, leaving everything but their bodies to burn. Over the levee the sights and sounds were harrowing. Thousands of people, mostly women, children and old men, were wringing their hands as they stood by the little piles of what was left of their worldly possessions. Thieves were everywhere, and some of them were soldiers. I saw one knocked down and left in the street, who had his arms full of stolen articles. The provost guards were everywhere, and I am told, shot down everyone caught spreading the fire or stealing. Nearly all buildings were of wood; great patches of burning roofs would sail away, to drop and start a new fire. By noon the thickly settled portion of Alexandria was a smoking ruin."<sup>14</sup>

In another place this man states that the "Jay-Hawkers" had said that they would never permit Alexandria to be returned to the Confederates. He seems to have forgotten that just a few days before, he had entered in his diary the fact that all of the men, some one thousand, had come into Alexandria and joined the Union Army. This became the famous Kirkpatrick Cavalry of central Louisiana, and many of its members lived to receive pensions from the Union.

Another Union soldier who came to Alexandria after the war to make his home, under oath, stated:

"After our defeat at Mansfield we retreated in full haste and finally made a halt at Alexandria where we went into quarters for several days. . . . On leaving Alexandria, the rear guard, being mounted infantry, set fire to the town on Second Street, as well as I can remember. The fire was fierce and could not be subdued by the few people in the town. General Grover, commander of the 2nd Division of the 19th Corps, who was below town, upon discovering the fire sent two couriers back (of which I was one), to stop the putting of the torch to any more buildings. Just as I arrived at the Court House which was then

<sup>14</sup> L. Van Alstyne, *Diary of an Enlisted Man*, pp. 314-320.

burning, I saw some stragglers putting the torch to the church on Second Street (Episcopal), and I was too late to prevent the burning of the church."<sup>15</sup>

In 1864, a correspondent of the St. Louis "Republican" sent a letter to this paper describing the burning of Alexandria, which was published in that paper and copied in the Richmond Enquirer of August 11, 1864, and was included in the pamphlet printed by the commission appointed by Governor Henry W. Allen in 1865. It is worth repeating, as coming from a disinterested spectator.

"When the gunboats were all over the falls, and the order to evacuate was promulgated, and the army nearly all on the march, some of the soldiers, both white and black, as if by general understanding, set fire to the city in nearly every part, almost simultaneously. The flames increased rapidly, increased by a heavy wind. Most of the houses were of wooden structure, and were soon devoured by the flames. Alexandria was a town of between four and five thousand inhabitants. All that part of the city north of the railroad (now Southern Pacific) was swept from the face of the earth in a few hours, not a building left. About nine-tenths of the town was consumed, comprising all the business parts and all the fine residences, the Ice House Hotel, the Court House, all the churches except the Catholic, a number of livery stables, and the entire front row of large and splendid business houses. The "Ice House" was a large brick hotel, which must have cost one hundred thousand dollars, which was owned by Judge Araial, a member of the late Constitutional Convention who voted for immediate emancipation on Louisiana; which convention also sent delegates to the Baltimore Convention. While Judge Araial was thus serving the administration, the Federal torch was applied to his houses, his law office, his private and law library, and all his household goods and effects. All this property, be it remembered, has been protected for three years by the Confederates, who all the time knew the Judge's proclivities. Hundreds of other instances might be cited of Union men who suffered in like manner.

"The scenes attending the burning of the city are appalling. Women gathering their helpless babes in their arms, rushing frantically through the streets with screams and cries that would have melted the hardest hearts to tears. Little boys and girls running hither and thither cry-

<sup>15</sup> Sam Pincus, Testimony on file in Court of Claims.

ing for their mother and fathers; old men leaning on a staff for support to their trembling limbs, were hurrying away from the suffocating heat of their burning dwellings and homes. The fair and beautiful daughters of the South, whose fathers and brothers were in one army or the other; the frail helpless wives and children of absent husbands and fathers were, almost in the twinkling of an eye, driven from their burning homes into the streets, leaving everything behind but the clothes they wore. Owing to the simultaneous burning in every part of the city, the people found no security in the streets, where the heat was so intense as almost to create suffocation. Everybody rushed to the river's edge, being protected there from the heat by the high banks of the river. The steamboats lying at the landing were subject to great annoyance, the heat being so great that the decks had to be flooded with water to prevent the boats from taking fire. Among those who thus crowded the river banks were the wives, daughters and children, helpless and now homeless, of the Union men who had joined the Federal Army since the occupation of Alexandria. Their husbands had already been marched off in the front towards Simmsport, leaving their families in their old homes, but to the tender mercies of the Confederates.

"The Federal torch had now destroyed their dwellings, their household goods and apparel, the last morsel of provisions, and left them starving and destitute. As might be expected, they desired to go along with the Federal army, where their husbands had gone. They were refused. They became frantic with excitement and rage. Their screams and piteous cries were heart rending. With tears streaming down their cheeks, women and children begged and implored the boats to take them on board. The officers of the boats were desirous of doing so, but there was the preemptory order from General Banks, not to allow any white citizens to go on board. A rush would have been made upon the boats, but there stood the guard with fixed bayonet, and none could mount the stage plank except they bore the special permit of the Commanding General. Could anything be more inhuman and cruel? but this is not all. General Banks found room on his transports for six or seven thousand negroes, that had been gathered in from the surrounding country.

"Cotton that had been loaded on transports to be shipped through the Quartermaster to New Orleans, under Banks' order, was thrown overboard to make room for negroes. But no room could be found for white women and children, whose husbands and brothers were in the



Federal army, and whose houses had been burned by the Federal torch. I challenge the records of all wars for acts of such perfidy and cruelty.

"But there is still another chapter in this perfidious military and political campaign. Banks, on arriving at Alexandria, told the people that his occupation of the country was permanent. That he intended to protect all those who would come forward and take the oath of allegiance; while those who would not were threatened with banishment and confiscation of property. An election was held and delegates were sent to the Constitutional Convention then in session in New Orleans. A recruiting officer was appointed, and over a thousand white men were mustered into the United States service. Quite a number of prominent citizens of Alexandria took the oath, and were promised protection. Their houses and other property have now been reduced to ashes, and they turned out into the world with nothing—absolutely nothing—save the amnesty oath! They could not go to the Confederates and apply for charity. They, too, applied to General Banks to be allowed to go aboard the transports and go to New Orleans. They were refused in every instance. Among those who applied was a Mr. Parker (Luther F.), a lawyer of feeble health, who had been quite prominent in making speeches since the Union occupation favoring emancipation, unconditional Union, and the suppression of the rebellion. Permission to go on a transport was refused him. He could not stay, and hence feeble as he was, he went on foot with the army. Among the prominent citizens who took the oath was Judge John K. Elgee of Alexandria.

"Before the return of the army from Grand Ecore, Judge Elgee went to New Orleans, leaving his family behind, expecting to return. He was not able to do so before the evacuation of Alexandria. Judge Elgee is one of the most accomplished and able men of the south. A lawyer by profession, he occupied a pre-eminent position, both politically and socially, and had immense influence. So great stress was placed on his taking the oath, that one of our bands serenaded him at his residence, and General Grover and General Banks honored him in every possible way. During my stay in Alexandria, I had occasion to call upon the Judge at his residence, and at his office (which were both in the same building) on business. His law and literary library, occupied, three large rooms—being as fine a collection of books as I ever saw. His residence was richly and tastefully furnished; a single painting cost twelve hundred dollars. In his absence, the Government

he had sworn to support, and which had promised him protection, allowed its soldiers to apply the torch to his dwelling, and turn his family into the streets. His fine residence, with all its costly furniture, his books, papers, and fine paintings, were burned up. It may be that the last named articles will yet find their way to the North, having been rescued from the flames by pilferers and thieves; for where arson is resorted to, it is to cover theft.

"J. Madison Wells, the Lieutenant Governor of Louisiana, elected with Hahn, By General Banks' orders, was not spared. He had been a Union man from the beginning. He had a splendid residence in Alexandria, well and richly furnished at which his own and his son's family resided. His son was absent in New Orleans, attending the Constitutional Convention, of which he was a member, and in which he voted for abolition and all the ultra measures. But that did not secure his family the protection of the Government. All was burned. Thousands of people, men, women and children were in a few short hours driven from comfortable homes into the streets. Their shelter, their provisions, their beds, were all consumed. In their extremity, which our culpability had brought about, the Commanding General turned his back upon them. The General perhaps, did not laugh at their calamity, nor mock when their fears came, but doubtless regarded it as the dawn of a political millenium. The march of the army from Alexandria to Fort De Russey was lighted up with the flames of burnings dwellings. Thus has General Banks become the "Liberator of Louisiana."<sup>15</sup>

The above are the statements of members of the Union Army, and it could not be expected that they would tell of the misdeeds of the army unless their statements were really true. The statements of a few residents of the parish of Rapides will now be submitted for your consideration. Some are by colored people, but their word is entitled to belief. The white people who furnished information were all highly respected individuals from many walks of life.

After the raid up Red River by General Nathaniel Banks, Henry W. Allen, the Governor of Louisiana appointed a commission composed of men from various parts of the state to gather evidence and report upon the depredations of the Union

<sup>15</sup> Judge T. C. Manning, "Rapides Report", in *Official Report Relative to the Conduct of Federal Troops in Western Louisiana During the Invasions of 1863 and 1864*, compiled from sworn testimony, under the directions of Governor Henry W. Allen, Shreveport, 1865. (In the possession of Mr. Henry P. Dart of New Orleans and used with his permission.)

Army in those parts of Louisiana that it had occupied. The man who made this investigation in Rapides was Associate Justice Thomas C. Manning. His report on the burning of Alexandria is based upon affidavits made by various parties. This report was printed by the Governor and a copy is now in the possession of Mr. Henry P. Dart of New Orleans, who has permitted its examination and use in this article.

The first affidavit in this report was made by Jacob Walker, a native of Germany, fifty years of age and a resident of Alexandria for some twenty-four years. He said:

"This town was fired on the morning of Friday, May 13th (1864) between 8 and 9 o'clock a. m. Several Yankee soldiers broke into the store on Front Street next to mine, and pilfered the tobacco, sugar and lard, which were the sole contents. While the party were below, another set went into the second story, and immediately afterwards the house commenced burning. The fire was applied in the second story. This was the commencement of the conflagration. While this was going on, I was standing on the levee about eighty feet away."

Lewis Texada, who had been a member of the State Legislature, a candidate for Lieutenant Governor and a member of the Secession Convention, stated that he heard Captain Francis, whom he understood to be on General Banks' Staff, say, that General A. J. Smith gave verbal orders to his troops to burn and destroy the town and that he would be court martialed for it.

Giles C. Smith made an affidavit that he had resided in Alexandria for 18 years; that his home was on Second Street, with one house (R. C. Hynson's) between his home and the Episcopal church. Referring to his house and its burning, he said:

"It was new, built entirely of brick with slate roof and parapets. Hynson's house had burned to the ground; it was of wood and distant about 90 feet from mine. My house had not caught fire. I had wet blankets on the side next to Hynson's and took out the window sashes, which were of wood. Four or five officers came into the lower apartment and ordered my wife and family out when I observed two cavalry men go upstairs, whom I immediately followed. One of them went into the rooms on one side of the passage and the other into the other side. There was a mattress in one room and the Yankee went into that room, walked up to it and drawing his



hand across it with a wide swoop, the mattress instantly caught fire and the room was in a blaze. I did not see anything in his hand, and do not know what it was he had, but suppose it was turpentine that he threw upon the mattress which was ignited by a lucifer match. I seized the mattress, got it downstairs to the street, where it burned up. After this a lieutenant and two privates (cavalry) came to my house and asked me roughly what I was doing there. On my answering it was my house, they ordered me away, but I would not go and they went in. Soon after they came out, an explosion was heard in the house, and the whole fabric tumbled down. It was blown up by this last party, doubtless, by a torpedo, since it did not catch fire from the adjoining buildings, and that seemed the only means of destroying it. This was about noon. The torpedo was exploded by means of a galvanized battery. I have now from the ruins a part of the battery and jar which I picked up and which were, of course, broken. I saw an officer set on fire the car house of the little railroad about 150 feet from Denis Sullivan's house. He sat on his horse and ejected from some sort of instrument in his hand a liquid upon the roof, which was ignited and burned with great rapidity."

Thomas K. Smith, who resided about nine miles above Alexandria, testified that it was necessary for him to visit on business the headquarters of General A. J. Smith, on the steamboat, "Clara Belle," then lying at the town of Alexandria, after their return from Mansfield and Pleasant Hill; and that,

"Whilst in his presence and that of his staff, I heard several regimental officers express their determination to burn the town before they left; said they would proceed to the business at once, were it not for the sick and wounded in the hospitals. General A. J. Smith heard the remarks—it was addressed to him."

E. R. Biossat, who was in the town, says that he heard nothing but threats to burn the town and that this information was conveyed to General Banks without any steps being taken to prevent the burning of the town.

Finally there is the statement of Dr. J. P. Davidson. Dr. Davidson had resided in Rapides for a number of years. He was above the military age and had remained at home to care for those left behind. His practice had been among the leading citizens of the section and he had accumulated quite a comfort-

able living and was considered to be in easy circumstances. His statement, though quite lengthy, is worth repeating:

"In the progress of the barbarous and unnatural war by the North against a country guilty only of loving the laws and religion of liberty, events have transpired having no parallel in history, and whose recital will never be believed save by those who witnessed them. The truth has been studiously suppressed, and the world at large knows not what enormities have followed in the tracks of the Federal bands. Armies composed of the vilest material that was ever gathered to scourge mankind, inflamed by promise of gain and unfettered license, marched to the conquest of an unoffending people.

"It has become the fixed purpose of the enemy to lay waste and destroy a country they find themselves unable to conquer by the legitimate course of war. Butler in Louisiana; Hunter and Porter in the Carolinas; Rosecranz in Tennessee; Pope, Milroy and others in Virginia; Sherman in Mississippi and Georgia, have sufficiently established the line of policy their Dictator has, in the hope of subjugating a brave and unconquerable people.

"This purpose was distinctly declared in reference to the delta of Red River, by General Banks, while occupying Alexandria in the spring of 1863, which he announced to a committee of citizens, who waited on him, to ascertain what orders he would issue to redress any disorderly conduct of the negroes just set at large by the presence of the army, and to obtain from him assurance of protection, etc. in these words: 'Believe it, gentlemen, as if you heard God himself speak it, I will lay waste your country, destroy your crops, stock and agricultural implements, so that you shall never organize and maintain another army in this department'.

"This threat he was unable to carry into effect until his return in the month of March of the present year. In the army corps of Sherman, commanded by General A. J. Smith, constituting a part of General Banks' army, he found agents fresh from the sacking and burning of a large district in Mississippi meet for the work he had in hand.

"It cannot therefore excite surprise in the minds of any, that the line of march of the army under General Banks can be traced like an Indian war trail, or the fire path of the prairie—by smouldering ruins of villages, dwellings, gins, and sugar houses—the conversion of a rich, beautiful and highly improved agricultural region into a vast wilderness. The marvel is, that attempts should have been made, on the part of the Federal press and the

defenders of General Banks, to prove that these acts of incendiarism and wholesale destruction were committed by the army under his immediate personal command without his order and direction.

"The 16th corps, commanded by General Mower, constituted the advance of the invading army under General Banks, and reached Alexandria on transports the morning of March 16, 1864. Immediately upon disembarking, they were permitted to rush through the streets of the town, unrestrained by the presence of their officers. They made an indiscriminate onslaught upon every private residence, appropriating to themselves everything valuable upon which they could lay their hands—and the depositories of food were at once forced open and their contents borne away. I saw officers present at Dr. French's, while his storeroom, meat-house, cribs, etc. were being robbed, and heard the appeal of Mrs. French to them for protection. The only reply vouchsafed was, that the army needed food and must be fed.

"Private houses were thus invaded, and the inmates subjected to the rudest insults and treatment. The defenceless females whose protectors were absent, only escaped personal violence by the determined and resolute manner in which they met the insults and gross language of the invaders of the sanctity of their homes. It would be impossible to give a detailed account of all the acts of outrage and insult inflicted throughout the town. Prominence should be given to the wanton destruction of the Public Records in the office of the Recorder and Clerk of the Court—the documents which were scattered through the streets and burnt—and to the destruction of the private letters and papers of individuals.

"The drug stores, three in number, were among the first places taken possession of. These were at once despoiled of their contents, which were used in furnishing their hospitals in town, and one devoted to the reception of cases of smallpox, two miles below town. Forty-four cases of this disease were landed from the transports on the day of their arrival. The stores of all descriptions underwent a similar spoliation; the iron safes forced and emptied, the ledgers, promissory notes, and accounts destroyed. Private residences were entered at night; writing desks, bureaus and armoirs rifled, and the occupants insulted and abused in the grossest manner, despite the efforts of the provost marshal, Captain Wolf, who evinced every disposition to afford protection to those applying to him for guard about their premises. The force at the command of the provost marshal was wholly inadequate to the protection of the town.



"Immediately on the occupation of the town by the Federal army, recruiting officers were opened for the enlistment of disaffected citizens, into the service of the United States, under the title of "Louisiana Scouts", to whom a large bounty was offered. In a few days three companies of these men (commonly called "jayhawkers") were organized, and placed under the command of men notorious for their resistance to the authorities of the Confederate Government, and who burned with revenge against many of the loyal citizens of the parish. To these organizations was committed the patrolling of the country adjacent; they scoured it, visiting upon individuals their vengeance and vindictiveness. This irregular force entered the residences of the planters, carrying off whatever they needed or could appropriate, and in many instances, offering violence and insults. In the remote parts of the parish they burnt the dwellings of those who were supposed to have been active in pointing out or aiding in arresting conscripts. In one instance, within my knowledge, an attempt was made to confine the wife, of one who had been somewhat active in designating the haunts of skulking conscripts, to the house, while they committed it to the flames. After the army marched for Shreveport, something of order and quiet was enforced by General Grover, the commandant of the post.

"The discomfiture and defeat of General Banks' army at Mansfield and Pleasant Hill by the forces under General Taylor, brought the Federal army down on us again, maddened by the disgraceful result of the boasted expedition, and gloating over the scenes of outrage, burning and destruction they had perpetrated on their march from Pleasant Hill to Alexandria.

"It became generally known throughout this town, that the enemy designed to devote the place to pillage and burning on the day they would evacuate it. Threats to this effect were publicly made by the privates as they walked the streets; and the citizens were warned by those of the army less fanatical and brutal, to provide against such a contingency. Measures were therefore taken to prevent so dire a calamity, by appealing to General Banks for protection. He was waited upon repeatedly by those having access to him and a written communication was sent by him giving assurance that every means would be employed to prevent any attempt to fire the town. Notwithstanding this assurance on the part of the Federal commander, many persons connected with the army continued to insist that orders were issued for the burning of the place. It was well known that friction matches were issued to the troops occupying the town, two days before

the evacuation, and for this purpose. Officers and men were overheard discussing the subject, and insisting that it should be carried into execution. On the morning of the evacuation, I overheard a person say to Mrs. Smith, who keeps a boarding house, in a very hurried manner, 'As soon as you have breakfast, close your doors, for we are going to have fun this morning.' Struck with his manner as well as his language, I asked him, 'What do you mean by having fun?' He replied, 'We are going to burn up your d——d town.' On the preceding day in the afternoon, standing at the window of the same house, I overheard three officers conversing on the sidewalk where they had just halted in their promenade. One of them remarked with great emphasis, 'The only way is to drive out the women and children and burn their dwellings.' Similar remarks could be indefinitely multiplied, as the subject was constantly a theme of conversation. An army once demoralized by having been instructed in work of this kind, as was the case with Sherman's corps, could not well omit perpetrating an act so ripe to their hands, and offering the resistless temptation of pillage. Long before the army marched towards Shreveport, in a conversation with Dr. Lucas, medical director in the 16th (Mower's) army corps, I complained to him of the enormities enacted by the Federal army, 'Why sir, this is nothing; if your town is served as well as all the towns we passed through in Mississippi, nothing but the blackened chimney-stacks would mark the place where your town stood.'

"For two days and nights before the evacuation, the town was guarded by the 113th New York Regiment (Zouaves) who faithfully and efficiently discharged the duty assigned to them. They were removed the morning of the fire, and the police duty assigned to a body of cavalry. To this circumstance is due the facility with which the burning of the town was carried out, and leads to the conviction of a premeditated design of the kind. The fire was communicated to a building on front street, in a central part of the town. A strong north wind was blowing at the time and from the drought which had prevailed for some weeks, the flames spread rapidly from building to building. At the premises of Frozine f. w. c. below the origin of the fire and to the rear of it, men entered the yard with a tin bucket and mop and sprinkled the fencing and out buildings with a mixture of turpentine and camphene, saying they were preparing the place for Hell! At several points where the progress of the fire was arrested by the interposition of a brick edifice, similar means were resorted to, in order to continue the conflagration. This

was done with the Court House, the brick store house of H. Robertson & Co., and Mr. Welsh and the brick dwelling house of P. O'Shee and Giles Smith. At many points persons were seen, belonging to the army, in the act of setting fire to the houses. This was the case in the Court House, O'Shee's dwelling, H. Robertson's and Welch's stores, and the railroad car depot.

"During the conflagration of the buildings, they were entered by gangs of soldiers and pillaged of everything valuable—oftentimes under the pretext of aiding the occupants—while many honest men devoted themselves to heroic efforts to save the buildings or property within. Many officers were conspicuous in their exertions in behalf of the suffering citizens; and to them was due the saving of a number of dwellings from destruction—Col. Neaffie, provost marshal; Dr. Roberts and Col. DeVere and others whose names, I regret, have escaped me. While the fire was raging, General A. J. Smith rode through the town, sword in hand, exclaiming, 'Hurrah, boys, this looks like war!' General Banks early appeared in the streets, and is said to have given orders for a detail of men to assist in putting out the fire, and to aid the citizens in rescuing their household effects.

"Many families lost a considerable part of whatever was safely taken from the reach of the fire, by the prowling stragglers who fell upon everything thus rescued by the unfortunates. Lieut. Beebe and Capt. Francis, both on the staff of General Banks, exerted themselves to repress these men, and thus saved much valuable property. While thus engaged near my premises, both of these officers ascribed the fire to the men belonging to General A. J. Smith's command, remarking that he gave no written orders, but that it was his custom to give them verbally, and that this was well understood by his men. It is due to this corps to say, that Captain Slough, A. D. G., on Smith's staff, on the retreat from Alexandria, stopped at the residence of John R. Williams and said to Mrs Williams, his sister-in-law, 'All the blame of the burning of the town will fall on our corps, but the orders to burn were issued by General Banks himself.' General Kilby Smith and General Mower, who were with the advance column on the retreat, while near the residence of Mr. Thomas K. Smith, a planter of respectability and standing, remarked that the town of Alexandria would be burnt, and they regretted exceedingly that the same had not been done with Natchitoches, but that the rebels pushed them so closely that they could not do it.



"In the face of all these facts, establishing clearly the purpose of the retiring army to destroy the town by fire, the apologists of General Banks, who represent him as weeping on beholding the burning town, and who attempt to ascribe the act as one of accident wholly, must be content to have their efforts in his behalf classed as a portion of the wilful suppression of the truth, and design to gloss over the enormities and barbarities of their government and its agents, in the prosecution of a war of extermination."

These are the facts as they come down to us some 67 years after the event, and they clearly point to the fact that Alexandria was destroyed by the Union army under the command of General Nathaniel P. Banks. The actual work was done by the men of the 16th and 17th Army Corps under the command of General A. J. Smith; but had Banks tried he could have prevented the destruction.

Among a few of the homes outside of the town destroyed at the same time, we find all of the buildings on the properties of Governor Moore, Mr. Josiah Chambers, the Winn plantation, just out of the town limits, and the plantations of Judge Boyce and the Blanchard Brothers near Boyce. In each of these instances the homes were robbed of all they contained and then the buildings were burned. On Oak Isle, the property of Mrs. Seip, the home was burned with all its contents. The library that had been collected by Timothy Flint and his sons, Micah P. Flint and James Timothy Flint, was housed in the residence on this plantation and was destroyed by the fire set by the Federal soldiers. It is also said that a Union soldier had been wounded at Oak Isle and placed on the gallery, and that he was permitted to perish in the fire that destroyed the building, being too badly injured to save himself and abandoned by his comrades.

Practically every gin, sugar house, and factory of any kind in the parish on the line of march of the Union Army was burned by these people.

These facts are submitted for what they are worth, but we are of the opinion that they show guilt on the part of the Army of the United States and its commanding officer.

There were three churches in the town, to wit: Catholic, Episcopal, and Methodist, as well as a hall that belonged to no particular denomination, but was used by all. After the retreat of the Union army the hall and the churches of the Methodist

and Episcopal congregations were all in ashes. The Catholic church was the only one left standing, and this was due to the fact that the priest in charge, Father J. G. Bellier, had stood at the front door of the church and threatened death to any soldier who should attempt to apply the torch. Father Bellier had been trained in the French army before studying for the priesthood and had reached the rank of Lieutenant of cavalry. He first came to Alexandria as the pastor of the church in 1849. He died while serving as a professor of French at the Louisiana State Seminary in 1867.

Members of Taylor's army, who followed close behind the rear guard of Banks, reached Alexandria a few hours after it had been evacuated by the Federals. To them it presented a pitiable sight. Every store and public building had been destroyed. The homes of these men and their friends were in ashes. The churches in which they had worshipped had ceased to exist, with the exception of the Catholic church. The Court House, with all its records, had been destroyed. Most of the citizens had no place to go, and in many cases nothing to eat. There was not left a deed, mortgage, judgment, marriage license, or succession record, that had been filed before May 13, 1864. The town and its people had been scourged by men who claimed to be Christians.

— THE END —



## SOME DISTINGUISHED HISPANO-ORLEANIANS

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*By* JOHN SMITH KENDALL

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Every now and then, as one pursues a meditative way about that part of New Orleans which we who live there fondly call the Vieux Carré de la Ville, one discovers, affixed here and there to inconspicuous corners of moldering facades, iron plaques of nondescript design, much defaced by rust and coats of carelessly-applied black paint. If one has the patience to decipher the inscriptions which appear upon these bits of disintegrating metal, he will observe almost obliterated by time and dirt, sometimes a few words of more or less authentic history, explaining just how that particular tablet comes to be attached to that particular edifice. These objects, it seems, are memorials set up years ago by an enthusiastic student of local history. They were never very numerous, and now that all manner of accidents have worked together to diminish the collection they are more than ever infrequent. The funds available for this enterprise were not very abundant, even at its inception; and after a while both cash and enthusiasm evaporated, and so a project which had much in its favor was suffered to go, as it were, by default.

Not even in the first flush of interest was any attempt made to put these markers on all even of the most important sites in the Vieux Carré. A few places were selected, apparently quite at hazard. The buildings so adorned were those which, for one reason or another, appealed to the amiable gentleman responsible for the idea; but perhaps he did not know the history of the city very thoroughly or perhaps he regarded the work as merely illustrative of something yet to be done on a large scale; at any rate, many a structure of the deepest interest was left unidentified when he desisted. It is worse now, when so many of these old memorials have been detached from their quondam places by vandal hands, and naught remains to indicate where they once were fixed save blotches of broken plaster on the decaying masonry: so that the pious pilgrim in the Vieux Carré lacks as often as not even these admittedly insufficient guides to aid him in his explorations in that oldest part of the most curious and interesting city in the United States.



By this preamble I mean, specifically, that the task of marking the buildings which are associated one way or another with the men and women who have made New Orleans what it is, is one which ought by no means to be left in its present incomplete state. Some day, when we have advanced much further in civilization than the stage at which we are at present halted, we will perhaps realize how precious to us is the past, and how necessary to an understanding of ourselves and our institutions it is to keep alive the names and exploits of those who have dwelt in our city in the old days. Then, perchance, money will be forthcoming from an enlightened municipal government to collect data and erect at all appropriate spots the signs and symbols which are all that we of today can dedicate to the great and the near great of yesterday. Let us hope that this fairy-tale situation may not be deferred too long; for year by year—almost hour by hour—the picturesque old houses which adorn the more venerable quarters of New Orleans are being sacrificed to ignorance and indifference, and ten years from now—perhaps five!—it will be too late to rescue from oblivion some of the most important edifices connected with our history.

It is not my purpose here to catalogue either the buildings or the people who, in my judgment, deserve commemoration at our hands. That would be a pleasant task, and perhaps on another occasion it can be done; but here I wish to mention the names and describe the haunts of only a few of the city's minor celebrities; none, certainly, among her most eminent—merely those who by virtue of their connection with romantic lands far away, appeal to me as interesting, each in the particular field which he has pre-empted. The habitations occupied by some of these still stand, but that is not the case with all, and in one case at least—and one which, in some ways, is the most important of all—nothing remains today to be pointed out as having been identified with his residence in the Vieux Carré; unless Barracks street and the more or less debatable site of the "cuartel" of Spanish times be accepted as such.

For, in that far-away-time—in the year 1774, to be explicit—there was a Spanish soldier in New Orleans named Vigo who, by a series of odd incidents, came to exercise a determining part in one of the most remarkable episodes in American history. Had it not been for Francesco Vigo the middle western portion of the United States might not have been joined to the original thirteen

colonies, or at least not annexed just in the manner and at the time that they were brought into the Union; and thus the whole process of the expansion of our country towards the Pacific might have been delayed or, perhaps, even prevented. According to the Italian historian, Roselli, who has devoted much time and labor to recovering the story of this forgotten celebrity, there have been few instances in the annals of any land where the right man has been so thoroughly in the right place at exactly the right moment, as Vigo was in the eventful closing years of the eighteenth century.

Vigo was an Italian by birth, but he ran away from home when still a very young man and enlisted in the Spanish army and to all intents and purposes was a Spaniard. The regiment of which he was a member was sent to Havana and, in the year mentioned, to New Orleans. He must have occupied quarters in the barracks in which the soldiers of the garrison were lodged in New Orleans. It was from that spot that he went forth one day, with a handful of his comrades, to join the seventy-six men who constituted the local militia in the task of policing the road that ran through the forests from New Orleans to St. Louis. Neither Vigo nor any of his associates in that onerous assignment felt that when they passed through the heavy wooden gates of the barrack-yard that a transcendently important moment had passed in their lives and in that of the North American continent. A few months later Vigo, the illiterate infantryman, emerged as the power behind the throne of the Spanish governor in the upper part of the Province of Louisiana, and as such had an important part in determining the progress of events thereafter.

Roselli hazards the guess that this singular and rapid rise of Vigo to a post of confidence and authority was due to something which happened in New Orleans. What that was, we shall probably never know. But we may suppose that it had to do with the young man's exceptional linguistic attainments. He spoke four languages fluently, and could make himself understood in a still larger number of Indian dialects. He must, therefore, have become invaluable as a means of communication with the motley population which was at that time scattered over the vast reaches of the upper section of the Mississippi Valley. In what today are the states of Illinois, Indiana, Wisconsin, Michigan and Minnesota, the total population probably did not exceed a thousand

souls. The Spanish in New Orleans exercised jurisdiction over them all, and Vigo must soon have shown his worth, travelling about in this enormous territory and conveying the orders of his superiors as circumstances dictated.

It must have been in the course of one of these journeys that he met George Rogers Clark. With Clark, at any rate, he fought against the British for Virginia and in that way helped save the Midwest for what was eventually to be the United States. The capture of the town of Vincennes was one of their exploits. The credit for the taking of Vincennes has been given in history—perhaps a trifle too hastily—to Clark and to Father Gibault, but a very large part of it ought to go to the New Orleans soldier, but for whose daring in collecting information about the British forces, first, and then for his generous financial support, the expedition would probably have met with a far different result. Vigo got into the British lines and was for a time in danger of his life. He finally managed to get himself released, but not till after spending thirty-two days profitably in Vincennes acquiring information regarding the garrison, its resources and means of communication. This knowledge he promptly placed at Clark's disposal; and then, after his safe return from his lone and perilous expedition, he scraped together \$13,000 which he used to defray the expense of the campaign. None of the money was ever repaid and Vigo, like so many others whose disinterested and patriotic efforts built up the great American republic, was suffered to die a pauper. It is said that his descendents are still to be found in New Orleans. Perhaps someday the commonwealths which profited by his courage and generosity may undertake to recompense them for their ancestor's sacrifices—Indiana, Virginia, or the United States as the chief beneficiary of his enterprise. If so, what an enormous fortune would be theirs, compounding the interest on Vigo's opportune loan over all the long years that have elapsed since the British flag was lowered for the last time on the silvan defenses of Vincennes! As it is, however, no one has found even the paltry sum required to erect a monument to Vigo, either in Vincennes, the scene of his most important exploit, or in New Orleans, the home of his young manhood.

Nor is there any immediate likelihood that New Orleans will erect a memorial to one of its citizens who performed in South America a service to liberty and independence no less important than that of Vigo. Yet Jose Maria Villamil bore a leading part in



the famous uprising in Guayaquil in 1820, thus paving the way for the establishment of the republic of Ecuador two years later. Villamil was distinguished as a writer and mariner as well as a soldier and patriot. He rose to the rank of General of Division—or, as we would say, of Major General—in the army of his adopted country. After retiring from public life he occupied himself with scientific studies, especially with regard to the Galapagos Islands, that strange archipelago off the South American coast which he was instrumental in inducing the Government of Ecuador to declare officially a dependency of that country. He was probably the first man to make a study of these islands. He had a wonderful dream of colonizing them, and spent no small part of his personal fortune in a futile effort to realize it. Altogether, he was a very remarkable man, who has left an enduring impress upon the history of one of the great South American countries.

In the archives of the old Cathedral of St. Louis one may see, written in quaint, old-fashioned, formal Spanish on yellowing, musty paper, with faded brown ink, the following entry:

Today, Tuesday, ninth day of the month of November of the year One Thousand Seven Hundred and Ninety, I Fray Luis Guigues, holder of the curacy of the parish church of San Luis de la Nueva Orleans, in the Province of Louisiana in America, baptized and anointed with the sacred oils a child that was born on the tenth day of the month of June of the year One Thousand Seven Hundred and Eighty-Eight, to whom I gave the name of Jose Maria, legitimate son of don Pedro Gonzales de la Galea y Villamil and of dona Catalina Joly. The godfather was Senor Jose de Orino and the godmother dona Blanca Palenti, and that all may see that this is the truth I affix the signature of my hand on the same day, month and year aforesaid.

Ut supra.

FRAY LUIS GUIGUES.

That, gentle reader, is the baptismal record of the distinguished soldier whom Ecuadorians remember with so much pride and affection. That—alas!—is the only trace of his existence which remains in the city of his birth. We do not know who his parents were; we do not know in what quarter of the old town they made their home; there is nothing to indicate where the future General saw the light. Yet it is not a little intriguing to find in the foregoing shabby old record the name of an Italian

lady—surely Palenti is that!—and one may conclude that Vigo, being of the same nationality, was not unknown to her and hence not unknown to don Pedro Gonzalez de la Galea y Villamil and his household. Perhaps it was the strange, wild tales that Vigo told when he came back, ever and anon, from long solitary journeys through the wilderness that fired the imagination of a sensitive, mettlesome youth, and filled his mind with bright visions of glory and liberty. Who can say? But that somewhere Villamil imbibed a passionate love of freedom is undeniable.

The biographies which have been written of the gallant Ecuadorean soldier say that he served in the Continental Army and then, at the age of twenty one, left New Orleans never to return. What was his reason for this departure? We know not. It must have occurred in 1809. In that year New Orleans had been an American city for six years. Villamil went to Europe. What were the ideas which he carried with him from the home which he had seen so recently incorporated in the great republic, the existence of which was a hope and an evangel throughout the world, wherever tyranny and oppression held the peoples in thrall?

The bond of a common language brought Villamil in contact with some young Venezuelans who had abandoned their own country on account of the conduct of the Spanish governmental officers there. They related to the enthusiastic boy terrible tales of royalist atrocities perpetrated upon the Creole population. He came to resent the haughty and overbearing manner affected by the Spaniards towards the "criollos." The idea of Spanish-American independence fired his imagination. Together with his new friends, he sailed away to take part in a great revolt that was being planned in Venezuela against the mother-country. The project, however, was doomed to failure. The Spanish regular troops speedily overpowered the patriot forces. Villamil was among those who were taken prisoner. He was about to be shot as a traitor. Fortunately, a brother of his, Alexis Villamil, lived in Maracaibo, and was on good terms with the governor, Millares. Thanks to his prompt intercession, the life of the young mad-cap was spared on condition that he go into exile. Alexis Villamil was probably also a native of New Orleans, but of this detail of the family history we know nothing, nor did he ever figure in history on other than this single occasion.

Undaunted, Villamil found his way overland from Venezuela to Ecuador in order to participate in the revolutionary movement

which was developing there. When this materialized in 1820 he was, as we have already said, its principal leader. This time he was completely successful. The Spanish troops were expelled from Guayaquil, the royal officials arrested, and the town itself was declared independent. Villamil's reward was the rank of lieutenant-colonel in the Ecuadorean army. With that rank he participated in the epochal battles of Coni and Huatchi. When the independence of Ecuador was finally established, Villamil continued to serve in the army, rising rapidly from post to post, until he was appointed commander-general of the District of Guayas, and then chief of operations—or, as we would say, chief of the general staff. In 1850 he became prefect "corregidor" of one of the "departments" or states into which the republic was divided. Two years later he was called upon by President Urbina to become head of the ministry, a post second in importance only to the presidency itself. In fact, had Villamil been less of a patriot and more of a politician, he might have succeeded to that distinguished office, but he had no ambition but to be of use to his adopted country. His last official position was that of minister plenipotentiary of Ecuador in Washington. He died in Guayaquil in 1866, universally respected—one of the most engaging among the men who have gone forth from New Orleans to win fame and honor in a foreign land.

It is a fine story—is it not?—this of Jose Maria Villamil. The next one that I have to relate, however, is by no means so cheerful. It concerns a great nobleman who came to New Orleans, only to meet here a particularly melancholy death. Villamil is ours by virtue of his birth; the count of Montezuma belongs to New Orleans only because it was here that he committed suicide and here that his body was at last laid to rest. That was in 1836. By his act he brought to an end one of the senior lines of descent from the imperial house which once ruled over Mexico. He died in poverty, after having lost a great fortune, largely through the unworthiness of friends who traded upon his confidence and good will. The house where this tragic event took place; a moldering will recorded in the archives of a local court; an inscription in the books of the New Orleans Board of Health; and a short but laudatory obituary notice in the Spanish language, printed in the "Bee" on October 26, 1836, are all that the city now contains that is identified with the history of a distinguished but unfortunate man; unless it be his tomb in the St. Louis cemetery; though that,



like his last dwelling-place, I have never been able to locate to my entire satisfaction.

His was a long and stately name: Alfonso José Antonio Pedro Nolasco Nicolás Diego Manuel de Santa Gertrudis Marcilla de Teruel Fagardo Montezuma y García de Alcaraz. He was a grandee of Spain. His father was a gentleman-in-waiting to the King of Spain. The son was born in Lorca on February 6, 1784, so that he was in his fifty-second year when he died—not the seventieth, as Prescott intimates, nor the eightieth, as the Mexican historian, Carbajal, has said. The matter of his age has importance, because the immediate cause of Montezuma's rash act was an unhappy love-affair; and the spectacle of senility cutting its wizened throat as the climax of a romance is scarcely calculated to awaken sympathy; whereas one can but feel a profound pity for a man of middle age driven to that desperate expedient by the pangs of despised affection.

Nor is it quite correct to say, as has been sometimes said, that with Montezuma the ancient Mexican imperial house came to its end. He was by no means the last of the descendents of the Indian emperor dethroned by Cortes in 1520. In fact, the family of the Aztec monarch branched out and flourished amazingly when transplanted to Spain, and there are dozens of persons of high rank and social importance there today who look back proudly to the Indian founders of their family. The male line, however, died out in the seventeenth century, with the emperor's great-grandson, the second count, who died leaving two daughters but no son. According to Spanish custom, by which a title is sometimes transmitted on the distaff side as well as on the male side, the title was enjoyed by the elder of these ladies and by her heirs, until as a result of further marriages it passed, first, to the Sarmiento family, then to that of de Silva, and finally to that of De Oca. Our New Orleans friend claimed descent from the second daughter of the second count, however, and only acquired the title in 1799, on the death of a remote cousin, the childless ninth countess of the Sarmiento-De Silva-De Oca line. At his death, again the dignity went to a remote relative, whose descendents were in 1865 advanced to a dukedom, and there are dukes of Montezuma in Spain at the present time, who, but for that unfortunate episode which we are about to narrate, might be making their homes in New Orleans.

Our Count of Montezuma had been at one time head of the government of the city of Madrid, but when the Napoleonic wars broke out, he felt drawn to the cause of liberty, and lost that post, as well as the friendship of his royal masters. Then it was that the great wealth which he possessed in Spain was confiscated. He sought refuge at one European court after the other. Finally, he went to Mexico, where he likewise owned vast estates, and where, he thought, if anywhere, the bearer of his historic name might expect a welcome. But no one there had any confidence in his professions of attachment to the cause of independence, and at last he saw himself obliged to flee from the land over which his ancestors had once exercised a despotic sway.

He came to New Orleans in 1828. It is said that he brought with him immense wealth. It was but a fragment of what he had once possessed. But he had the true aristocrat's indifference to business, and as the "Bee" said in its brief notice of his death, "he was the victim of his liberality, his confidence in mankind, and of the ingratitude which dishonors the human race." When after his death an inventory of his effects was made, less than \$140 were found—a sum insufficient to pay his debts—and so the body was buried at the expense of a "free woman of color," named Calixte Labiche, who had, apparently, nursed him in his last days and cherished some affection for her hapless master.

Montezuma's end was particularly tragic. He wounded himself with a razor, but did it so inexpertly that, instead of producing immediate death, he merely inflicted injuries which deprived him of the power of speech and made it impossible for him to take food; with the lamentable result that he lingered through twenty-eight days of suffering before he passed away. He must have been a man of attractive character, for it is on record that his remains were escorted to the tomb by "a great number of friends." "From opulence to privation," exclaimed the moralizing writer who composed the "Bee's" memorial, "from distinction to obscurity, from a position of the highest respect to one in which he endured gratuitous insult, and great and fierce passions which he found it impossible to control . . . what mysterious chaos! He was a man who without effort was a faithful friend to those whom he believed his friends; who, always indulgent to the weakness of others, could not condone his own. He preserved during a stormy career a conscience free from remorse. Pure tears were shed upon his tomb, and his memory is free from

malediction and execration." An ample eulogy, even for one who, by the possession of an illustrious name, and by having played a part on a great stage, deserves to be included in the roster of New Orleans' distinguished citizens!

The spot where this piteous tragedy was enacted is not known with entire certainty. Tradition points to a building in Rampart street between St. Peter and Orleans, as the scene of Montezuma's suicide. If so, it must be one of the three small residences which still stand in that vicinity, overlooking the green plaisance which we nowadays call Beauregard Square, but which was much better named when it was known as Congo Square. These structures bear the municipal numbers 712, 714, 716. You can take your choice. There is no evidence now available to show just which one was really the poor Count's home. My own selection is No. 716, for no better reason than that it has a queer little attic lighted by small square windows; and I feel quite certain that up there, in the room into which the light of day makes its way uncertainly through these narrow openings, Montezuma inflicted upon himself the wounds from which he died. I can imagine him climbing the stair to that hiding place, sick at heart with the multitudinous disappointments which had come upon him, and determined that the royal race to which he belonged should not survive to be the object of scorn in the city which had known the days of his prosperity; and feeling, too, the pang of rejection which elderly men feel when at last they come to realize that love is for the young only. Up there, where the sloping roof is nowhere more than six feet above one's head, and where much of the little apartment lies in year-long shadow, he must have seated himself gloomily before a scrap of mirror, and then, deliberately, with the stoicism which he inherited from his aboriginal forebears and which was now all that he retained of their once illimitable treasures, slashed his throat with his razor.

It is probable that the Count of Montezuma removed to this house not long before his death. In those days it stood in a comparatively remote part of the city, and doubtless cheaper living had become a matter of importance to him, and could be obtained there more easily than in a more fashionable neighborhood. But all the rest of his long residence in New Orleans was passed in quite another quarter of the Vieux Carré. His home in 1834 was at the corner of St. Ann and Bourbon. At that spot there stands



today a story-and-attic brick cottage. In olden days a spacious garden stretched its perfumed spaces along one side of the building. I think I am justified in identifying this as Montezuma's house. Nowadays it bears the municipal number 938. It is manifestly an old structure, the oldest in the neighborhood, now given over to tiny wooden residences, with box steps opening directly on the sidewalk, all crowded together as closely as the city ordinances and the fire regulations permit, and none of them more than a possible fifty years of age. But this one place, with its solid brick walls and over-hanging eaves, its stoutly built stoop and doorway, and, especially, the peculiar type of the roof, with its dormer windows like two eyes staring down upon the vicinage, goes back to the early part of the nineteenth century; and if so, in all probability was the only building then on that corner, and there according to the directories from 1832 on, the luckless Count made his home.

I paid a visit to the spot a few days ago. I wanted to verify my recollection of the house. It was a bright, sunshiny afternoon. A frame cottage stands in what was the old nobleman's garden. Across the street, on the opposite corner of St. Ann and Bourbon, there is a dilapidated structure with a spidery wooden shed over the sidewalk, obviously built for the purpose to which it is still applied—a corner grocery of the type which, in pre-prohibition days, was also a sort of cheap groggery. And every inch of the adjacent ground is occupied by small cottages of the type I have described; with—that afternoon—hard-working housewives scrubbing the box steps to that degree of dazzling whiteness which, in the Vieux Carré, seems to be the requisite to the maintenance of one's self respect; and a tribe of smutty children were playing vociferously in the gutters. What it was like in the Count's day I can hardly guess; though doubtless much more attractive than now, if it had, as I suppose, bits of flowery Creole garden around each of the scattered dwellings, and trees to shade with their emerald foliage the peaceful porches on which the people used to sit in the long, sweet, New Orleans afternoon.

Montezuma's is a piteous story. And yet in some ways it is less piteous than that of another of New Orleans' citizens whose fame persists in all places where the soft, many-vowelled tongue of Castile is spoken. Leopoldo Turla, the Cuban poet and patriot, spent the last quarter-century of his life here in bitter poverty

and disillusionment; here he died, and here his body lies in an almost forgotten grave. But long years of poverty and neglect, discouragement and labor were sweetened by the consciousness of a life nobly lived, dedicated to the cause of the independence of his country, and filled with the melody of the verses which flowed from his pen; verses which, transmitted to Cuba through those secret channels known and used only by the "insurrectos," inspired his ragged and hungry countrymen to continued what must have seemed at times the hopeless struggle against the might of Spain; until at last, in 1898, success crowned their arms and Cuba was free.

Turla belonged to a wealthy and prominent family in Havana. He was of distinguished Spanish ancestry, but his people had resided for several generations in the Ever Faithful Isle; and it was in Havana in 1815 that he first saw the light. Great events were stirring in the world at the time. The shadow of the Napoleonic wars still lay dark upon the imagination of mankind. The vast domains of Spain in the New World were seething with unrest, and from many directions were rising voices demanding liberty and independence. The sons of proud old families from Andalusia and Castile affiliated themselves with secret patriotic societies. Gold from the great estates in Mexico, Cuba and Colombia was poured out freely to finance a revolutionary movement. The Spanish government, alive to the danger, adopted a policy of rigorous repression. Property was confiscated; men and women arrested; the hangman's rope or the firing-squad began to function wherever the signs of revolt made their appearance.

Turla's poetical genius developed very early. Even in school he wrote, and his writings attracted the attention of his preceptors. "Every one who knew him," says a contemporary writer, "immediately perceived that he was destined to a lofty mission—to be the poet, the educator, the unpurchasable advocate of truth, justice, and the independence of his native country." He published a volume of poems, entitled "*Ráfagos del Trópico*" in 1842, and followed it with several plays, some of which were performed with considerable success. But his contributions to the local journals struck fire. Under the patronage of General Narciso López his pen became a thorn in the side of the Spanish administration. The tone of his poems grew steadily bolder. Soon he was openly calling upon his countrymen to arm and fight for freedom.

The government could not afford to ignore the challenge which so conspicuous and talented an adversary flung down. In 1850, a beggared refugee, he fled from Cuba. His family's possessions had been confiscated and he himself was exiled. First he went to Charleston, South Carolina, but soon moved to Savannah; and then, after two years, influenced no doubt by the fact that a Cuban patriotic "junta" was actively at work in New Orleans, he came here to lend what aid he could to the good cause. He supported himself as a teacher, but that failing, he found employment as a clerk in a local mercantile establishment, and on the pittance thus earned he managed to subsist till his death, twenty-five years later. In New Orleans he was joined by his family, including two sons, who contributed to the support of the little home what they could earn, one as a cigarmaker and the other in some small clerical capacity.

Want and privation did not check Turla's pen. He wrote constantly. Some of his poems—translations, chiefly—found their way into the New Orleans newspapers. Others were printed in New York, where there were various publications issued by patriotic organizations of Cuban exiles. All of his productions were received in the patriotic armies in the "maniqua" with that passionate enthusiasm which is, after all, the poet's most enviable reward. Lately an effort has been made by the Cuban National Academy of Arts and Letters to collect Turla's writing. Some day, no doubt, we shall have them in a stately volume. By far the greater part of its contents will be poems which were composed in the shabby little cottage where the poet dwelt on St. Claude street, near Mandeville street.

That part of St. Claude street is still shabby. In Turla's day the vicinity was less solidly built-up than it is today, but the row of tiny "double" cottages, in one of which he resided, stood then much as it stands today. Turla's was numbered 575; when the city was renumbered in 1890 this number was changed to 2327. The low, one-story, five-room structures are neat and clean, but all too obviously occupied now, as then, by families upon whom Fortune has never bestowed more than a fleeting smile.

Turla's bare little home was a center of reunion for the Cuban exiles in New Orleans. They were fairly numerous. Among them were Ignacio Miranda, another poet, whose widow resided in the city long after her accomplished husband's death; Julio



Chassagne, the restless conspirator, in whose tomb Turla was finally laid to rest; Angel de Castro, the musician; and José Quintero, the journalist, who also wrote inspired verse and was the friend and correspondent of Longfellow and Edward Everett Hale. Here, too, Turla received the visits of José Martí, the great apostle of Cuban Independence, on his frequent visits to New Orleans. Here, on the morning of Tuesday, March 20, 1877, after a brief illness, the poet passed away.

An article written by a friend appeared in the "Picayune" a few days later, in which Turla was mentioned as "foremost among the Spanish American poets of today," and stating that he had died "obscure and unknown in our midst." He was "a poet of a very noble order, who despised inflated sentiment. False tricks and the studied application of white handkerchiefs to the eyes, he scorned. His noble thoughts were embodied in beautiful and many-colored words, and his enthusiasm was mellowed by remarkable resources of scholarship and a thorough appreciation of art . . . When he read his patriotic poems, arrows of flame shot through his blood. His impassioned words fell like drops of fire on the hearts of his hearers, his bold eyes flashed, and his lips quivered with scorn and hatred. There was a deep music in his poetry, melancholy and solemn like the sound of the waves heard in an old house by the sea . . . He was a spirited man, who would not do a mean action, although, for the freedom of his country, he might not hesitate at crime." A sufficient eulogy, these words; awkwardly expressed, no doubt, because they were written by one better acquainted with the Spanish than with the English idioms; but nevertheless, a tribute of which anyone might well be proud.

Turla was buried in the St. Vincent de Paul cemetery. The vault bears the number, 39; and below it are carved his name and that of Chassagne and the words "Por su Patria, Cuba." For many years its whereabouts were known only to a few members of Turla's family and to the caretakers at the cemetery, and none of them remembered that it was the grave of a famous poet. Turla's wife, Rosa López de Turla, died May 30, 1893, and was also buried in New Orleans. A number of their descendents still reside in the city.

One of the tragedies of Turla's ill-starred life was the loss of a trunk containing his unpublished manuscripts. At his

death this receptacle was entrusted to his son, Santiago, who married a young lady of a local French family, named Drouet. Santiago was a travelling salesman. In a moment of financial stress the trunk was sold to a second-hand dealer. The new owner, unaware of the value of its contents, and probably disconcerted at discovering that the papers were in a foreign tongue, destroyed them. Among the material thus lost to posterity was Turla's last literary undertaking—a translation into Spanish of "The Voice of Silence," a poem by William Winter, the once well-known New York dramatic critic. What else the trunk contained we do not know, but Turla was a prolific writer, and doubtless much perished which otherwise would have proven a great enrichment to the literature of his native land. At any rate, the memory of his fine, brave, consecrated life remains to offset the sordid story of his poverty and sufferings.

Many other memorials exist in New Orleans of its distinguished citizens of Spanish speech. Space does not suffice to list them all. Every upheaval in Latin America has been followed by the arrival in New Orleans of one or more distinguished exiles. For example, Gómez Farías, one of the most attractive characters in the long list of Mexican presidents, resided in this city for some months during his first period of exile, in 1834-35, and then, in 1840, came back to make his home here continuously for five years. Mexía, Almonte, and Zavála, all of them prominent figures in Mexican and early Texan history, spent much of their leisure in New Orleans. Here, too, the illustrious Juárez, whose position in Mexican history is much like that of Washington in our own, supported himself at humble occupations during the lengthy period when his native country offered no safe place of residence; it is said that he was a fish peddler for at least a part of the time. Porfirio Díaz was another Mexican celebrity who found New Orleans a congenial place of refuge in moments of distress.

Other Latin American republics have contributed their quota to the Spanish-speaking colony in New Orleans. President Zelaya, of Nicaragua, owned a home here and occasionally occupied it. Vásquez, after being deposed from the presidency of Honduras, was a guest here for many months at a residence on the corner of St. Charles and Third street. Policarpo Bonilla, having peacefully completed four years as president of the same republic, sought retirement in New Orleans. He spent many of the remaining years of his adventurous life here in the practice of law.

If the limits of this article contemplated an enumeration of all the various buildings in the city identified in one way or another with the history of our neighbor-nations of Spanish speech, it could easily be expanded into a volume. There would be, for instance, much to say about the little brick one-story-and-a-half double cottage at 833 Ursulines street, where in 1835 Gómez Farías, himself a York-rite Mason, and 35 prominent New Orleans members of the local lodge signed with Stephen Austin an agreement looking to the emancipation of Texas from Mexican rule. But this phase of the subject would lead us too far afield. Nor can we here take up the surviving memorials of those American citizens, like William Walker and Sam Houston, who played a large part in the affairs of Latin America. New Orleans has always been a favorite resort for filibusters and adventurers of all descriptions. Their presence would at least lend romance to any community with which they elected to identify themselves. But their activities lie beyond the purview of the present article, and must be described, if ever, at another time and in another place.





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**THE ORIGIN AND EARLY DEVELOPMENT OF  
COUNTY-PARISH GOVERNMENT IN LOUISIANA  
(1805-1845)**

BY

ROBERT DABNEY CALHOUN

Vidalia, La.

TO THE MEMORY OF MY LATE MENTOR HENRY PLAUCHE DART.

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I.

A PRELIMINARY SURVEY

ONE of the most important chapters in Louisiana's history has remained unwritten. That chapter relates to the origin and organization, first, of the "counties" and county governments of Orleans Territory under the act of 1805, with the subsequent legislative enactments and executive steps which were taken in their administrative development, and, secondly, to the change from the old "county" subdivisions to "parish" subdivisions and the early development of parish government.

Our historians have covered comprehensively the several transitions through which Louisiana had gone previous to its purchase by the United States—from France to Spain, 1762-1769, and from Spain back to France in 1800, but with the actual delivery to the latter consummated only on November 30, 1803. Likewise, they have fully covered the considerations or motives which actuated both the vendor and the vendee in the negotiations which culminated in the treaty of cession and purchase between France and the United States of April 30, 1803. They have also carried us over the steps taken by President Jefferson and the Congress for the approval of the treaty; for the reception of the Province of Louisiana by the United States; for the immediate assertion of governmental authority by the new sovereign; and for its division by Congress into two territories, the Territory of Orleans and the District of Louisiana. They have elaborated on the institution and development of the government of Orleans Territory in the larger sense; and, finally, they have traced for us, in more or less minute detail, the steps which led to the addition of Louisiana's star to our flag, and the subsequent development of the State government in a sovereign sense.

No historian, it is believed, has given more than a passing attention to the important features of our history which form the subject-matter of this paper. As a rule, they have been content with almost the bare statement that Orleans Territory was originally divided by the Legislative Council into twelve, named, *counties* in 1805; and that subsequently, in 1807, the Territory was redistricted or divided into nineteen, named, *parishes*. This statement is literally true, although it is only a half truth. Where it is further said that this abolished the division into *counties*, or where such a conclusion is necessarily drawn by inference, there is grievous error<sup>1</sup>. The purpose of this paper is to correct this misinformation and, to the best of our ability, bridge the chasm in our State's written history which is suggested by our subject.

It is unnecessary to elaborate here the transitions through which the Province of Louisiana had gone prior to the execution of the treaty of April 30, 1803. But we think it necessary, not only as a convenient reference, but as a foundation upon which to build this paper, to review the action of the United States from that time on.

On July 16, 1803, President Jefferson issued a proclamation convening the Congress in extraordinary session on Monday, October 17, 1803.<sup>2</sup> On that day he transmitted to the Congress his third annual message in which he reviewed the causes which induced the negotiations with the French Republic and their successful conclusion. Among other things he said:

"... The enlightened government of France saw with just discernment the importance to both nations of such liberal arrangements as might best and permanently promote the peace, friendship, and interests of both, and

<sup>1</sup> For an interesting but brief discussion of this, see Murphy, W. M., *Historical Sketch of Madison Parish*, La. Hist. Qy., Vol 11, No. 1, Jan., 1928, pp. 39-58 (55-58).

Martin, F. X., *History of Louisiana*, Ed. of 1882, at p. 336, a half dozen lines are devoted to the Act of 1805, and at p. 342 the Act of 1807 is noted with the same brevity.

Gayarré, Charles, *History of Louisiana*, 2nd Ed., 1879, Vol. 4, p. 21, makes a bare mention of the first act. I do not find that he mentions the Act of 1807.

Fortier, Alcée, *History of Louisiana*, 1904, Vol. 3, gives a paragraph to the Act of 1805 at page 22. After naming the counties created, and giving the statutory description of some of them, he makes this erroneous statement: "The other counties were all minutely described." A bare reference to the Act of 1807 is made at page 52.

Phelps, Albert, *Louisiana*, 1905, at pp. 227-228, devotes a half page to both acts.

Chambers, Henry E., *A History of Louisiana*, 1925, Vol. II, p. 456, briefly discusses both acts.

Grace King and John R. Ficklen, *History of Louisiana*, 1897, treat of both acts at pp. 161-162.

<sup>2</sup> Richardson, Jas. D., *Messages and Papers of the Presidents*, Washington, 1896, Vol. 1, p. 357.

the property and sovereignty of all Louisiana which had been restored to them have on certain conditions been transferred to the United States by instruments bearing date 30th of April last. When these shall have received the constitutional sanction of the *Senate*, they will without delay be communicated to the Representatives also for the exercise of their functions as to those conditions which are within the powers vested by the Constitution in Congress . . .

"With the wisdom of Congress it will rest to take those ulterior measures which may be necessary for the immediate occupation and temporary government of the country; for its incorporation into the Union; for rendering the change of government a blessing to our newly adopted brethren; for securing to them the rights of conscience and of property . . ."<sup>3</sup>

On the same day the President transmitted the treaty of cession, and the accompanying documents relating thereto, to the Senate for its consideration, with the statement that: "The ratification of the First Consul of France is in the hands of his charge d'affaires here, to be exchanged for that of the United States whensoever, before the 30th instant, it shall be in readiness."<sup>4</sup>

The Senate promptly ratified the treaty; and on October 21, 1803, the President advised the Congress: that the conventions "with the advice and consent of the Senate having now been ratified, and my ratification exchanged for that of the First Consul of France in due form, they are communicated to you in your *legislative* capacity. You will observe that some important conditions cannot be carried into execution but with the aid of the Legislature and that time presses a decision on them without delay."

"The ulterior provisions also suggested in the same communication" (Jefferson's message of October 17th) "for the occupation and government of the country will call for early attention. Such information relative to its government as time and distance have permitted me to obtain will be ready to be laid before you within a few days; but as permanent arrangements for this object may require time and deliberation, it is for your consideration whether you will not forthwith make such *temporary*

<sup>3</sup> Messages and Papers, *op. cit.*, pp. 357-362 (358).

<sup>4</sup> Messages and Papers, *op. cit.*, p. 362.



*provisions for the preservation in the meanwhile of order and tranquillity in the country as the case may require."*<sup>a</sup>

The matter of reducing the Province of Louisiana into possession under the terms of the treaty and of providing for an immediate exercise of governmental authority was now up to the Congress. That body promptly passed the necessary act, which was approved by the President on October 31, 1803. By section one the President was "authorized to take possession of and occupy the territories ceded by France to the United States by the treaty concluded at Paris . . . and that he may for that purpose, and in order to maintain in the said territories the authority of the United States, employ any part of the army and navy of the United States, and of the force authorized by an act passed the third day of March last . . . which he may deem necessary." Section two provided:

"Until the expiration of the present session of Congress, unless provision for the temporary government of the said territories be sooner made by Congress, all the military, civil and judicial powers exercised by the officers of the existing government of the same, shall be vested in such person and persons, and shall be exercised in such manner as the President of the United States shall direct for maintaining and protecting the inhabitants of Louisiana in the free enjoyment of their liberty, property and religion."<sup>b</sup>

Acting under this authorization the President designated W. C. C. Claiborne, Governor of Mississippi Territory, and General James Wilkinson as the Commissioners of the United States to receive the actual transfer of the Province from the French Commissioners, the transfer to be made at New Orleans.

Upon the arrival of these Commissioners in New Orleans, the transfer from France to the United States took place in the memorable ceremony at the Cabildo on December 20, 1803. Immediately following the conclusion of this ceremony Claiborne, who had been invested by the President with the necessary powers, issued in his capacity of "Governor of the Mississippi

<sup>a</sup> Messages and Papers, *op. cit.*, pp. 362-363.

<sup>b</sup> Thorpe, Francis Newton, *The Federal and State Constitutions, Colonial Charters, and other Organic Laws*, Washington, G. P. O., 1909, Vol. 3, p. 1364. C. 1, 2 Stat., 245.

Territory, Exercising the Powers of Governor General and Intendant of the Province of Louisiana," his public proclamation declaring:

" . . . That the government heretofore exercised over the said Province of Louisiana, as well under the Authority of Spain, as of the French Republic has ceased, and that of the United States of America is established over the same; that the inhabitants thereof will be incorporated into the United States and admitted as soon as possible according to the Principles of the Federal Constitution to the enjoyment of all the rights, advantages and immunities of citizens of the United States; that in the meantime they shall be maintained and protected in the free enjoyment of their Liberty, Property and the Religion which they possess; that all laws and municipal regulations which were in existence at the cession of the late Government remain in full force, and all civil officers charged with their execution, except those whose powers have been specially vested in me, and except also such officers as have been entrusted with the collection of the Revenue, *are continued in their functions* during the pleasure of the Governor for the time being, or until provision shall otherwise be made."

Relative to this, on January 16, 1804, President Jefferson advised the Congress:

"In execution of the act of the present session of Congress for taking possession of Louisiana, as ceded to us by France, and for the temporary government thereof, Governor Claiborne of the Mississippi Territory and General James Wilkinson were appointed Commissioners to receive possession. . . . Our Commissioners on their arrival at New Orleans found the Province already delivered from the Commissioners of Spain to that of France, who delivered it over to them on the 20th of December, as appears by their declaratory act accompanying this. Governor Claiborne, *being duly invested with the powers heretofore exercised by the Governor and Intendant of Louisiana*, assumed the government on the same day, and for the maintenance of law and order issued the proclamation and address now communicated . . ."

<sup>7</sup> Rowland, Dr. Dunbar, *Official Letter Books of Governor Claiborne*, Jackson, Miss., 1917, Vol. 1, p. 307.

<sup>8</sup> Messages and Papers, *op. cit.*, Vol. 1, p. 367.

In the exercise of these "blushing honors" which had been thrust upon him, some historian has said that "Claiborne played the rôle of a benevolent despot." The powers which he did exercise, or, at least, was authorized to exercise, were more properly those of the Spanish régime.<sup>9</sup> The French administration of Louisiana, though terminated in a *quasi* sense with the arrival of Ulloa in 1767, terminated in fact with the arrival of Governor O'Reilly in 1769. There succeeded this Governor a number of able and amiable Spanish gentlemen who did much to reconcile the prejudices of the French population of Louisiana to the Spanish form of provincial government which was set up.<sup>10</sup> When Spain ceded the Province back to France by the secret treaty of Saint Ildefonso, in 1800, there was no actual delivery of possession and no cessation of the Spanish administrative functions. Concerning the twenty-day resumption of French sovereignty just preceding the delivery to the United States, it may be said that French officialdom in Louisiana was merely marking time. The fountain of the Spanish provincial government, the Cabildo, ceased to flow. A French municipal council was set up in New Orleans, but it was mainly concerned with the temporary municipal administration of that city.<sup>11</sup> In the outlying districts the Spanish commandants retained their posts, and these, or most of them, were in turn reinvested by Governor Claiborne with authority to perform their same duties, but in the name of the United States.<sup>12</sup>

It seems pertinent at this point to introduce a rough pen-sketch of that portion of Louisiana which was soon to become Orleans Territory. Able historians have frequently drawn a more pleasing and colorful picture, and with greater attention to detail. At the time of the cession the population of that (the Or-

<sup>9</sup> Gayarré, *op. cit.*, Vol. 4, pp. 1-4.

<sup>10</sup> Applicable, more or less, to all the Spanish governors following O'Reilly except Salcedo. He was aged and infirm both physically and mentally, and his official acts were dictated by a dissolute son—Letter Claiborne to Madison, Jan. 2, 1804, in *Official Letter Books*, *op. cit.*, Vol. 1, p. 323.

<sup>11</sup> See Kendall, John S., *History of New Orleans*, 1922, Vol. 1, pp. 44-52 for comprehensive account of Laussat's Municipal Council.

<sup>12</sup> See Claiborne's instructions to Dr. John Watkins of Feb. 9, 1804, in *Official Letter Books*, *op. cit.*, Vol. 1, pp. 367-368; and Watkins' twelve-page report, dated Feb. 2 (*sic*), 1804, in *Ibid.*, Vol. 2, pp. 3-13. Also circular letter of instructions Claiborne to all Commandants, probably dated March 30, 1804, in *Ibid.*, Vol. 2, pp. 71-75; and letter from Claiborne to Henry Hopkins, Commandant of the District of Attakapas and Opelousas, dated Jan. 20, 1804, in *Ibid.*, Vol. 1, pp. 336-338.



leans Territory) area was about forty-five thousand, and it was, as it always had been, predominantly French.<sup>13</sup>

As to New Orleans proper, with a population at that time of around ten thousand, the French inhabitants were chiefly French immigrants, who came directly from France, or their descendants, and their speech was almost the pure Parisian. There was a small percentage of Canadian and Acadian French and an influx of French refugees from St. Domingo. The Spanish population was very small, consisting mainly of Spanish officials and soldiers or their descendants. There was a sprinkling of Americans, engaged chiefly in mercantile and shipping pursuits. There was also a polyglot from all quarters of western Europe and from the West India Islands, engaged in shipping and trade and in the pursuit of adventure, many of whom rendered allegiance only as best suited their schemes. Finally, there was a large population of slaves and a respectable number of "free men of color."<sup>14</sup>

It is said that outside New Orleans in 1803 "there were twenty distinct zones of rural settlements within the limits of the present State of Louisiana."<sup>15</sup> Without attempting to definitely locate and describe in detail all of these several settlements, we may say that, leaving out of consideration the Florida Parishes area, the population of the part of Louisiana under consideration, in 1803, was largely confined to the city of New Orleans and the "Island of Orleans" east of the river, and the area on the west bank of the Mississippi lying south of the mouth of Red River and east of the Atchafalaya. These settlements mainly bordered both banks of the Mississippi from the Balize up to New Orleans, and from New Orleans up to the Iberville (Manchac) on the east bank, and from New Orleans up to Red River on the west bank. The settlements also extended into the interior along the Bayou

<sup>13</sup> Population estimates vary, as no census extant since that of 1788. We adopt a middle figure. See Martin, *op. cit.*, p. 300; Gayarré, *op. cit.*, Vol. 3, p. 622. Also: Robertson, James Alexander, *Louisiana Under the Rule of Spain, France and the United States*, Cleveland, O., 1911, Vol. 1, pp. 49-50, quoting Burquin-Duvallon, Robin, etc. Also *An Account of Louisiana*, 50 pp., Duane, Printer, Washington, 1803, a document prepared by direction of President Jefferson and submitted to Congress. This is very much abridged in its republication in *Old South Leaflets*, Vol. 5, No. 105, Boston, 1900, and all appendices, including census estimates were omitted.

<sup>14</sup> As to the population and its composition, see Robertson, *op. cit.*, Vol. 1, p. 71, quoting Dr. Paul Alliot; *Ibid.*, p. 172, 198, quoting Burquin-Duvallon; and *Ibid.*, p. 172, quoting Collet and Robin. For a view of New Orleans at time of the purchase, see Kendall, *op. cit.*, Vol. 1, pp. 59-62 and King, Grace, *New Orleans, The Place and the People*, N. Y., 1895, pp. 167-174.

<sup>15</sup> Scroggs, William O., *Rural Life in the Lower Miss. Valley About 1803*, Miss. Valley Hist. Assn., Vol. 8, Reprint La. State University Bull., Vol. 7, N. S. No. 9, Sept., 1916. Figures hereafter given are taken from Scroggs and his paper liberally drawn on.

Lafourche. The area presently spoken of, excluding the City and not considering the slaves, was inhabited almost entirely by the French, either Parisian or Acadian (Creoles). The exceptions were: about six hundred Canary Islanders in the Saint Bernard district below the City and the Germans in the two districts on the river above New Orleans, known as the First and Second German Coasts. The population of these two districts in 1803 was about five thousand, but even there a large French element had infiltrated. There were about two hundred and fifty Spaniards at Galveztown, at the junction of the Iberville and Amite Rivers; they moved shortly after the cession into Spanish territory near the Spanish fort at Baton Rouge.

At that time the vast area of northeast and north Louisiana, a huge triangle bounded on the east by the Mississippi, and on the west by Red River, and on the north by the thirty-third degree of north latitude (the Arkansas-Louisiana line), was practically a primeval forest which had scarcely felt the bite of the settler's axe. In this area there was the little settlement of Concord, opposite Natchez, consisting of less than a dozen houses. The country in this district, bordering on the Mississippi and extending northward through our present upper parishes, was in process of just being occupied under the Spanish concessions which had been given within the two years preceding the purchase and largely in anticipation of that event. Beyond a baker's dozen of Spaniards and Frenchmen, these early settlers were of English, Irish, and Scotch-Irish extraction and had come from the eastern states originally, tarried a while in the Mississippi Territory, and then crossed the river.<sup>16</sup>

In this major area there were also the Ouachita settlements, extending along the Ouachita River for a considerable distance and centering at Fort Miro, and including the settlements of the Marquis of Maison Rouge and the Baron de Bastrop. These settlements are said to have contained in 1803 about five hundred people, of whom about fifty were slaves. The white population was a mixture of French Royalists and Americans. There was a small settlement at the junction of the Little and Black

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<sup>16</sup> Calhoun, R. D., *A History of Concordia Parish, Louisiana*, Chapter on "Post of Concord and Settlement of Concordia," *La. Hist. Qy.*, Vol. 15, No. 1, Jan., 1932, pp. 53-55.

rivers and, perhaps, a few early American settlers on Sicily Island.<sup>17</sup>

In the major area of northwest Louisiana, say from the 33rd parallel southward along the west bank of Red River to the 31st parallel (the Louisiana base line) and thence westward with the base line to the Sabine, there were only the settlements of the Natchitoches district and those of the Rapides and Avoyelles. The northernmost, the Natchitoches, which had been settled by St. Denis in 1714, contained at the time of the purchase over fourteen hundred inhabitants, about half of whom were slaves. The white population was French. The district along the Red River known as the Rapids contained, in 1797, about eight hundred inhabitants, one-fourth of whom were slaves; and the Avoyelles district, adjoining it on the east, had a population of some three hundred whites and one hundred slaves. The white population of these two districts was predominantly French, though there had been a noticeable entry of Americans into the Rapides.<sup>18</sup>

In the Attakapas country, along the Bayous Teche and Vermilion, there were extensive settlements; and their total population in 1803 was 3,746, there being 2,270 whites, 1,266 slaves, and 210 free persons of color. The white population of these settlements consisted almost wholly of Acadian exiles or their descendants—a simple, pastoral people, speaking a French dialect all their own and having their own peculiar and charming customs.<sup>19</sup>

To the north of the Attakapas was the district of the Opelousas, a cattle grazing country. In 1797 its inhabitants numbered 2,427 persons, of whom 781 were slaves and 103 were free persons of color. The Creoles were largely in the majority, but a considerable English-speaking element had already entered this region.<sup>20</sup>

<sup>17</sup> Dunbar, William, *Life, Letters and Papers*, edited by Mrs. Dunbar Rowland, Jackson, Miss., 1930, pp. 216-320 (Journal of his Ouachita River expedition, 1804-1805). *Bastrop Land Grant*: United States vs. Philadelphia and New Orleans, U. S. Sup. Court, 11 How. (U. S.), pp. 608-661, 13 Law Ed., 834-856. *Maison Rouge Land Grant*: United States vs. King & Coxe, U. S. Sup. Court, 8 How. (U. S.), p. 771, 11 Law Ed., pp. 824-831; 2nd Opinion, 7 How., pp. 831-893, 12 Law Ed., pp. 934-960. United States vs. Turner, 11 How., 663, 13 Law Ed., 857-859.

<sup>18</sup> Scroggs, *op. cit.*, p. 275.

<sup>19</sup> Scroggs, *op. cit.*, p. 268.

<sup>20</sup> Scroggs, *op. cit.*, p. 269.



The great scope of country from the base line south to the Gulf, and west of the Teche, Vermilion, and Opelousas settlements and on to the Sabine was entirely unsettled in 1803.<sup>21</sup>

## II.

### ORLEANS TERRITORY CREATED

Resuming the chronology of events at the point of our divergence, it is unnecessary to review Governor Claiborne's extraordinary administration between December 20, 1803, and October 1, 1804, though we shall have occasion to revert to it later. Congress passed a new act, approved March 26, 1804, *to become effective on October 1, 1804*, dividing the Louisiana purchase into two parts, the upper portion to be known as the "District of Louisiana," the lower as the "Territory of Orleans." The latter was described as:

"All that portion of country ceded by France to the United States, under the name of Louisiana, which lies south of the Mississippi Territory, and of an east and west line to commence on the Mississippi River at the thirty-third degree of north latitude, and extend west to the western boundary of said cession, shall constitute a territory of the United States, under the name of the Territory of Orleans . . ."

The act then proceeded to outline the government to be set up in the Territory. Section two vested the executive power in a governor, required to reside therein, whose term of office should be three years, subject to Presidential removal. He was made commander in chief of the militia and vested with the power to grant pardons for offenses against the Territory and reprieves for those against the United States, pending action of the President thereon. All civil and military officers were to be appointed by him unless otherwise provided in the act. Section three created the office of Secretary of the Territory and defined his duties; section four provided:

"The legislative power shall be vested in the Governor and in thirteen of the most fit and discreet persons of the territory, to be called the Legislative Council, who shall

<sup>21</sup> Additional authorities for above sketch: Stoddard, Major Amos, *Sketches Historical and Descriptive of Louisiana*, Philadelphia, 1812; Brackenridge, Henry M., *Views of Louisiana*, Pittsburg, 1814; Monette, John W., *History of the Discovery and Settlement of the Valley of the Mississippi*, N. Y., 1848.

be appointed annually by the President of the United States. . . . The Governor, by and with the consent of the said Legislative Council, or a majority of them, shall have power to alter, modify or repeal the laws which may be in force at the commencement of this act. Their legislative powers shall also extend to all the rightful subjects of legislation; but no law shall be valid which is inconsistent with the constitution and laws of the United States or which shall lay any person under restraint, burden or disability, on account of his religious opinions, professions or worship; in all which he shall be free to maintain his own and not burdened for those of another. The Governor shall publish throughout the said Territory all the laws which shall be made, and shall from time to time report to the President of the United States to be laid before Congress, which if disapproved of by Congress, shall thenceforth be of no force . . ."

The fifth section of the act provided for the setting up of the territorial courts. It vested the judicial power in a Superior Court consisting of three judges, to be appointed by the President for the term of three years, and "such inferior courts and justices of the peace as the Legislature of the territory may from time to time establish." The Superior Court was given jurisdiction in all criminal cases and exclusive jurisdiction in all capital cases. It had original and appellate jurisdiction in all civil causes of the value of one hundred dollars. "In criminal prosecutions which are capital, the trial shall be by a jury of twelve good and lawful men of the vicinage, and in all cases criminal and civil in the Superior Court, the trial shall be by jury if either party require it." We forego noting other provisions of the act, but, finally, it provided that *it should continue in force for one year and until the next session of Congress thereafter.*<sup>22</sup>

Under the provisions of this act President Jefferson reappointed Claiborne as Governor and also appointed the three Superior Court Judges and the Secretary; and the new government proceeded to function. Of the thirteen Legislative Councilors whom the President had selected several refused to serve. The President, not knowing the initials of some of the men chosen as law-makers, had forwarded the commissions in blank to Governor Claiborne, who filled in other names. A quorum of the Legislative Council met at New Orleans on December 4, 1804, when it began its labors.<sup>23</sup>

<sup>22</sup> C. 38, 2 Stat., 283. Thorpe, *op. cit.*, Vol. 3, pp. 1364-1371.

<sup>23</sup> Gayarré, *op. cit.*, Vol. 4, pp. 19, 20, 21.

At this time Claiborne had already been acting as Governor for nearly a year under his first extraordinary commission. His official acts during that period had been viewed with alarm and suspicion by the overwhelmingly predominant French population of Louisiana. He was of a different nationality; he did not speak their language nor think their thoughts; he was unfamiliar with their ancient traditions and customs. Almost as his first act after taking possession he had set up among them a court of Common Pleas—a court of the Common Law system—of which they were entirely ignorant. They and their ancestors had lived under the Civil Law system: whether the Customs of Paris, administered by a French Superior Council, or the Spanish law of the Partidas, enunciated and enforced through the Cabildo. With these they were familiar; but this new government, with its grand jury inquisitions and its trial by jury and other forms of procedure of which they knew nothing, was a strange and fearful thing.<sup>24</sup>

At the close of a most learned and exhaustive paper read by Henry P. Dart before the annual session of the Louisiana Bar Association in 1921, upon the subject of *Courts and Law in Colonial Louisiana*, we find the following which is pertinent:

"... And now I must dwell for a moment before closing on this last thought, to suggest something which I have not seen recorded in our histories, and that is this, when Claiborne took up his task, that herculean and unusual task as ruler, legislator and judge, for he combined all those powers in his single person, and at one time, he found ready to his hand a Municipal Council in New Orleans, created by Laussat and composed of the very best material. A leading Creole at its head and a fair division of Creoles and Americans in the membership. Just such a body as the recently deceased Cabildo, and not greatly differing from the old Superior Council. Could Claiborne, with his supreme authority, have been led to confer judicial functions on that body he might have altered our legal destiny. We would possibly have gradually slipped into an acquaintance with the other system and in time have forgotten the mild sway of the past under the equally mild justice of a judiciary which had the confidence of the inhabitants. If the idea occurred to him he never expressed it and on the contrary created at once, practically his first act, a Court of Common Pleas, after the model of his home system in

<sup>24</sup> Gayarré, *op. cit.*, Vol. 4, pp. 1-4. Claiborne's ordinances re: Municipal Court of Pleas in full *Official Letter Books, op. cit.*, Vol. 1, pp. 317-319; *Ibid.*, pp. 240-241; *Ibid.*, pp. 393-394 and Vol. 2, pp. 115-116 and 251-253.



Tennessee and Virginia. He filled its bench with judges who spoke his tongue; he established that language in its records, and out of his common law experience he devised rules for this court absolutely foreign to anything the Creoles had ever heard or experienced. He repeated from another angle O'Reilly's ruthless policy. The Creoles took it as a challenge, and the war which was thus started ended only when, by congressional relief and ultimate admission to the Union with full right of citizenship, the natives of Louisiana wrote into their fundamental law that principle which preserved the civil law. That law had been the leading institution of Louisiana for one hundred years before Claiborne came among us. We have added another hundred or more years to that score . . ."<sup>25</sup>

The ancient inhabitants of Louisiana found additional fault with this new law: They were opposed to the splitting up of Louisiana, and to its prohibition of the importation of slaves. There was dissatisfaction not only among the French, but even among those who had grown up under the English-American system. There was here no right of suffrage to be exercised by an American citizen, no voice in the making of the laws that were to chart the bounds of his future rights and liberties. And these suspicions, prejudices, doubts, and complaints were loudly voiced to the President and in the halls of Congress.<sup>26</sup>

In his fourth annual message to Congress, November 8, 1804, the President said:

" . . . In pursuance of the act providing for the temporary government of Louisiana, the necessary officers for the territory of Orleans were appointed in due time to commence the exercise of their functions on the 1st day of October. The distance, however, of some of them, and indispensable previous arrangements may have retarded its commencement in some of its parts. The form of government thus provided *having been considered but as temporary*, and open to such future improvements as further information of the circumstances of our brethren there might suggest, it will of course be subject to your consideration . . ."<sup>27</sup>

<sup>25</sup> Report La. Bar Assn., New Orleans, 1921, pp. 17-63 (61-62). Claiborne discusses fully his establishment of the Court of Common Pleas, and his exercise of Supreme judicial functions in his letter to Madison of Oct. 16, 1804—*Official Letter Books, op. cit.*, Vol. 2, pp. 352-360.

<sup>26</sup> Gayarré, *op. cit.*, Vol. 4, pp. 4-17; 53-64.

<sup>27</sup> Messages and Papers, *op. cit.*, Vol. 1, 369-373 (371).

As the preceding acts of Congress and the messages of the President indicate, the initial steps taken for the government of Orleans Territory were in their nature more or less experimental, such changes being in contemplation as further information and study and the exercise of sound statesmanship might suggest. This attitude was further influenced by the outcries, not only of many prominent Frenchmen in the Territory, but also of many "American" citizens, some of whom were probably eligible to membership in the Society of the Cincinnati.

In this state of affairs another act for the government of Orleans Territory was passed by the Congress and approved by the President on March 2, 1805.<sup>28</sup> This act bore the title: "An act further providing for the government of the Territory of Orleans." The first section reads:

"That the President of the United States be, and he is hereby authorized to establish within the Territory of Orleans a government in all respects similar, (except as herein otherwise provided,) to that exercised in the Mississippi Territory; and shall, in the recess of the Senate, but to be nominated at their next meeting, for their advice and consent, appoint all the officers necessary therein, in conformity with the ordinance of Congress, made on the thirteenth day of July one thousand, seven hundred and eighty-seven, and that from and after the establishment of the said government, the inhabitants of the Territory of Orleans shall be entitled to and enjoy all the rights, privileges and advantages secured by the said ordinance, and now enjoyed by the people of Mississippi Territory."

The act for the government of the Mississippi Territory,<sup>29</sup> made by reference a part of the organic law of Orleans Territory, was approved 29th of March, 1798; and it, in turn, as does the act under present consideration, had incorporated in it by reference the provisions of the old Federal ordinance of July 13, 1787, which provided a government for the great "Northwest Territory," except as those provisions were, in terms, excluded by the Mississippi act. The act for the organization of the Mississippi Territory excluded that portion of the Ordinance of 1787 which prohibited "slavery and involuntary servitude;" and in lieu thereof, by section seven, it made unlawful the importation

<sup>28</sup> 2 Stat. at Large, 322; Thorpe, *op. cit.*, Vol. 3, pp. 1371-1373.

<sup>29</sup> 1 Stat. at Large, 549; Thorpe, *op. cit.*, Vol. 4, pp. 2025-2027.

of slaves into the Mississippi Territory *from any place without the United States*. The portion of the old Ordinance of 1787 which was specifically excluded from operation by the Orleans Territory act (section five) was the second section of the Ordinance "which regulates the descent and distribution of estates," and which was declared to be "excluded from all operation within said territory of Orleans." This exclusion was a partial answer to the complaints of the French civilians of Louisiana.

Section Two of the supplementary Orleans Territory act provided:

"That so much of said ordinance of Congress as relates to the organization of a General Assembly, and prescribes the powers thereof, shall, from and after the fourth day of July next (1805) be in force in the said territory of Orleans; and in order to carry the same into operation, the governor of the said territory shall cause to be elected twenty-five representatives, for which purpose he shall lay off the said territory into convenient *election districts*, on or before the first Monday of October next, and give due notice thereof throughout the same; and shall appoint the most convenient time and place within each of said districts, for holding the elections; and shall nominate a proper officer or officers to preside at and conduct the same, and to return to him the names of the persons who may have been duly elected. All subsequent elections shall be regulated by the Legislature, and the number of representatives shall be determined and the apportionment made in the manner prescribed by the said *ordinance*."

Section three of the supplementary act directed the Governor to convene these newly elected *representatives* in New Orleans on the first Monday in November, 1805; and it provided that "the first *general assembly* shall be convened by the Governor as soon as may be convenient, at the City of New Orleans, after the members of the *Legislative Council* shall be appointed and commissioned." The General Assembly was required to hold an annual session.

It is unnecessary to note other provisions of the supplementary act except that it repealed all repugnant provisions of the existing law and stipulated that "the residue of said act shall continue in force until repealed, anything in the 16th. section of said act to the contrary notwithstanding—" this being the time limitation of the first statute as above noted.



It now becomes necessary to review some of the provisions of the old Ordinance of 1787 thus made a part of the organic law of Orleans Territory. The Ordinance of 1787 divided the Northwest Territory into definitely described Districts and invested a Governor with comprehensive powers pending their division into *counties* and the election of representatives.

"... Previous to the organization of the General Assembly, the Governor shall appoint such magistrates and other civil officers in each *county* or township as he shall find necessary for the preservation of the peace and good order of the same ... and he shall proceed from time to time as circumstances may require, to lay out the parts of the district in which the Indian titles have been extinguished, into *counties* and townships, subject, however, to such alterations as may thereafter be made by the legislature.

"So soon as there shall be five thousand free male inhabitants, of full age, in the District, upon giving proof thereof to the Governor, they shall receive authority, with time and place, to elect representatives from their *counties* or townships, to represent them in the General Assembly; provided that for every 500 male inhabitants there shall be one representative (and increasing progressively) until the number of representatives shall amount to twenty-five, after which the number and proportion of representatives shall be regulated by the Legislature ... provided, also that a freehold of fifty acres of land in the District, having been a citizen of one of the states, and being resident in the district, or the like freehold and two years residence in the district, shall be necessary to qualify a man as an elector of a representative ...

"The General Assembly or Legislature shall consist of the Governor, Legislative Council and a House of Representatives. The Legislative Council shall consist of *five* members ... any three of whom to be a quorum; and the members of the Council shall be nominated and appointed in the following manner, to-wit: As soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and when met, they shall nominate ten persons, residents of the District ... and return their names to Congress, five of whom shall be appointed and commissioned to serve as aforesaid, (for a period of five years) ... and every five years, four months at least before the expiration of the time of service of the members of the Council, the said House (of Representatives) shall nominate ten persons as aforesaid and return their names to Congress ...

"And the Governor, Legislative Council and House of Representatives shall have authority to make laws in all cases for the good government of the District, not repugnant to the principles and articles in this ordinance established and declared. And all bills having passed a majority in the House and by a majority in the Council, shall be referred to the Governor for his assent; *but no bill or legislative act whatever shall be of force without his assent.*"<sup>80</sup>

### III.

#### CREATION OF THE COUNTIES

As we have seen, the Legislative Council of thirteen members created by the first act held its first session on December 4, 1804, which was carried over into 1805. There were two sessions of this body during that year prior to July 1st, and many laws were passed. One of the first things to be done was to divide the Territory into such governmental subdivisions as might be found necessary for the administration of local affairs. The system which had prevailed in the thirteen original colonies, and that had been adopted by the provisions of the Ordinance of 1787 (though it was not yet effective here), and which had been continued after the adoption of the United States Constitution—and practically universal in the United States today with the single exception of Louisiana—was a division of the colony, territory or state into *counties*. A colonial map of almost any of the thirteen original colonies—for example, a map of Virginia or either of the Carolinas—reads like a county map of England.

In the case of *Engle vs. Beard*, 33rd Arkansas Reports, it is said:

"... The idea of a government by means of *counties* comes down from the remotest period of Anglo-Saxon history. It was imported to the American colonies with the common law, and entered naturally and of course into the frame of all their Colonial governments; from whence it passed by easy tradition and necessary consequences, into the government of the states ... The idea of *counties* underlies all American constitutions."<sup>81</sup>

And in the leading case of *Markey vs. Queens County* (New York), we find this:

<sup>80</sup> Thorpe, *op. cit.*, Vol. 2, pp. 957-962.

<sup>81</sup> 33 Ark. Reports, 497-502, quoted in footnote No. 37, p. 393, of *Corpus Juris*, Vol. 15, verbo "Counties."

"... The civil divisions of a state into *counties* had their origin in England, where, preceding the organization of the Kingdom itself, they were thereafter continued, from recognized necessities in government, as other countries had their departments or provinces. In such divisions it was found that the purposes of local government and the administration of justice were promoted. Differing from England in their origin, in this country they were first created by the legislatures of the various colonies, and subsequently by the states of the Union... In this state (New York) its division into counties, or sections, for the purposes of local government was but a continuance of a method which, while a colony, it had adopted from England."<sup>32</sup>

As to the definition of *county* and the etymology of the word, we find this in Bouvier's Law Dictionary:

"COUNTY—One of the civil divisions of a country for judicial and political purposes. 1. Blackstone's Commentaries, 113. Etymologically, it denotes that portion of the country under the immediate government of a count. 1. Bl. Com., 116.

"The States are generally divided into counties. Counties in many of the states are divided into townships or towns....

"In English law, this word signifies the same as *shire*, county being derived from the French, and *shire* from the Saxon. Both these words signify a circuit or portion of the realm into which the whole land is divided for the better government thereof and the more easy administration of justice. There is no part of England that is not within some county; and the *Shirereeve* (Sheriff) was the governor of the province, under the *comes*, earl, or count."<sup>33</sup>

Pursuing the subject further back to the ancient England of the Saxons, we excerpt the following from a most respectable authority:<sup>34</sup>

"In the Teutonic nomenclature, the territory of the tribe is the *gá, gau, peod, or scir*, in modern English *shire*, the *pagus* or *scira* of Latin writers. *Shire* from *shear*, does not mean a group of lesser units, but in strictness a division, something shorn off from a greater whole. Both names are historically true. Of the existing *shires* of England,

<sup>32</sup> 154 New York, p. 675; 39 L. R. A., 46-57 (52).

<sup>33</sup> Bouvier's Law Dic., 8th Ed., 1914, Vol. 3, p. 693.

<sup>34</sup> Encyc. Britannica, 9th Ed., Am. Rept., 1878, Vol. 8, p. 247, "England."



some are really primitive *gás*, settlements of tribes, while others are in strictness *shires*, artificial divisions formed at a later time in imitation of the primitive *gá* . . . In the process of English reconquest, the land was mapped out afresh into *shires*, strictly so called, shires grouped conveniently around a central town, and bearing the name of that town, instead of the name of the ancient tribe. The *shire*, it is needless to say, is still a living thing throughout England, and from England it has spread itself, commonly under the French name *county*, through all lands ruled, settled or influenced by England."

And again from the same authority:<sup>35</sup>

"COUNTY is the chief of the administrative areas into which England is divided. This is an ancient division, and, according to the popular manner for accounting for the origin of social institutions, is attributed to the wisdom of our early kings, and more particularly of King Alfred. It is tolerably clear, however, that this theory is a reversal of the natural process, and that, instead of counties having been formed by the division of the country, the country itself was formed by the aggregation of counties. The county, in fact, is the representative of an independent kingdom or community, now long merged in the larger unity of the English kingdom. The mistake that has been made as to the historical relations of the county and the kingdom is repeated in the popular accounts of the subdivisions of the county itself. Alfred the Great, it is said, divided the country into *hundreds*, and these again into *tithings*. The truth is exactly the contrary, the subdivision of the county being an earlier aggregate than the county itself. The parish, the manor and the township all appear to be traceable to the independent tribal settlement—the village community of the early Saxons. They appear in history with their political and judicial organism complete. A combination of these units forms the district of the *hundred*; and a combination of the hundreds forms the *county*. All of these groups have the same kind of organization. They all have their *moots* or meetings, partly judicial, partly political in character, and their head man or *reeve*. The Witenagemot of the Saxon kingdom is the folk-moot for the whole kingdom, corresponding to the folk-moot for the *shire* or *county*.

"In the period preceding the Norman conquest two officers appear at the head of the county organization. These are the *ealdorman* or earl and the *scirgerefa* or sheriff. The latter was more particularly the representative of the king;

<sup>35</sup> Encyc. Britannica, Vol. 6, pp. 455-456, "County."

the former represented, in dignity at least, the head of the county before it had ceased to be an independent community . . ."

So then, by act of "the Governor of the Territory of Orleans, by and with the advice of the Legislative Council thereof," approved April 10, 1805,<sup>28</sup> the Territory was divided into *twelve counties*, called: *Orleans, German Coast, Acadia, Lafourche, Iberville, Pointe Coupee, Attacapas, Opelousas, Natchitoches, Rapides, Ouachita, and Concordia*. They were bounded and described as follows:

1. "The *County of Orleans* shall comprehend all that portion of country lying on both sides of the river Mississippi from the Balize to the beginning of the Parish of St. Charles, including the Parishes of St. Bernard and St. Louis.
2. "The *County of German Coast* shall comprehend the Parishes of St. Charles and St. John the Baptist, commonly called the First and Second German Coasts.
3. "The *County of Acadia* shall comprehend the Parishes of St. James and the Ascension, commonly called the First and Second Acadian Coasts.
4. "The *County of Lafourche* shall comprehend the Parish of Assumption.
5. "The *County of Iberville* shall comprehend the Parish of St. Gabriel and such part of the parish of St. Bernard as lies within the Territory of Orleans. (Note: This was the Parish of St. Bernard at Galveztown.)
6. "The *County of Pointe Coupee* shall comprehend the Parish of St. Francis.
7. "The *County of Concordia* shall comprehend all that portion of country lying within the following boundaries, to-wit: Beginning at the mouth of Red River and along the same to Black River; then along Black River to the Tensa River, and along the same to Tensa lake, then by a right line, easterly, to the Mississippi and down the same to the point of beginning.
8. "The *County of Ouachita* shall comprehend all that country commonly called and known by the name of the Ouachita settlements.
9. "The *County of Rapides* shall comprehend the settlements of Rapides, Avoyelles, Catahoula, Bayou Boeuf, Bayou Robert, and all other settlements which now are or may be made in the vicinity thereof, and which may, in the opinion of the Superior Court, lie nearer

<sup>28</sup> Acts Legislative Council, 1805, C. XXV, pp. 144-152.

or more conveniently to the house or seat of justice of the said County of Rapides than to the Court House or seat of Justice of any other county.

10. "The *County of Natchitoches* shall comprehend the parish of St. Francis. (Note: the second of that name.)
11. "The *County of Opelousas* shall comprehend the parish of St. Landry, commonly called the Parish of Opelousas.
12. "The *County of Attacapas* shall comprehend the Parish of St. Martin, commonly called the Parish of Attacapas."

The act further provided that "the County Court of each county, respectively, shall fix and determine the seat of justice thereof in such manner as may be most convenient for the inhabitants at large."

It is interesting to note that of the twelve counties thus created, Concordia was the only one to be given a definitely defined boundary, and this by reason of the fact that its boundaries were almost entirely water courses. Nor could it have been otherwise. The United States had been in possession of Louisiana for scarcely more than a year and vast areas of the interior of the country were entirely unsettled and practically unknown to the "Americans." The Orleans Territory area had not been surveyed and charted. With the exception of the County of Rapides and the County of Ouachita, the location and approximate limits of the other counties were fixed by describing each of them as being composed of a given *parish* or *parishes*.

These parishes were not civil but Catholic ecclesiastical parishes. The older settlements in Louisiana having been made by the French, devout Roman Catholics, the little parish church of each community soon became its center, and in the course of time the sphere of its influence extended into the outlying territory in fairly well recognized and fairly known limits, though without, so far as we know, any actual civil delineation. Under the Spanish régime the union between church and state was even closer, as the Spanish ecclesiastical laws were interwoven with the merely temporal or civil laws of the *Partidas*, the Spanish code. In addition, the Church establishment in Louisiana had the financial support of the king and the colonial



treasury.<sup>37</sup> Therefore, as a rule, the parish church became the most important institution and the parish priest the most important individual in any lower Louisiana community during the colonial period. The church and its good Père were closer to the people than was the district or post Commandant. The Père received their confessions and granted them absolution; he officiated at their baptism; he announced their marriage banns and he administered extreme unction. He presided at their religious festivals and took part in their holiday entertainments. He was counselor to the literate and adviser, accountant and scribe to the unlettered. So then, by common consent and custom any given scope of country became known as belonging to a given "parish" rather than by any designation of the civil authority.<sup>38</sup>

North of Red River the same situation did not exist. There was no ecclesiastical parish in the Concordia area. What few Catholics there were in that region at the time were members of the parish at Natchez. The Ouachita settlements were comparatively new and evidently there was no established ecclesiastical parish with its seat at Fort Miro.\* The earlier French settlements of the Sieur de Cantillon, near Fort Miro, and of the Sieur de Villemont, opposite Harrisonburg, had been broken up at the time of the Natchez Indian war and had not been renewed until the later years of the Spanish regime.<sup>39</sup> So there was no method of more definitely defining the County of Ouachita; the same may be said of the County of Rapides.

<sup>37</sup> Martin, *op. cit.*, p. 242, for itemized budget of expenses of Church Establishment. At p. 303 he gives a further survey, and says: "The province, for ecclesiastical purposes, was divided into twenty-one parishes . . ." I have been unable, after much research and inquiry, to locate this ecclesiastical or civil decree. See also: *An Account of Louisiana*, *op. cit.*, pp. 38, 39; Robertson, *op. cit.*, Vol. 1, p. 211; Kendall, *op. cit.*, Vol. 2, pp. 698-700.

<sup>38</sup> This writer, though not a Catholic, believes this estimate of the influence of the Church and its clergy to be correct. The views expressed are not entirely in accord with some contemporary writers, at least as to the Spanish clergy; notably Berquin-Duvallon, *Vue de la Colonie Espagnole du Mississippi*, etc., Paris, 1808, pp. 172-175. That writer, though most entertaining, viewed everything in Louisiana with a jaundiced eye. His incorrect and brutal vivisection of the Creoles is an example. His attitude towards the Church was markedly Voltairian. Robin, *Voyages dans l'intérieur de la Louisiane*, etc., Paris, 1807, Vol. 2, p. 122; and Perrin Du Lac, *Voyage dans les deux Louisianes*, etc., Paris, 1805, p. 292, are almost as unflattering to the Church. Possibly these writers were under the influence and reflected the attitude of the Consulate of France, which was notoriously unfriendly to the Catholic Church; and later writers seem to have accepted their views.

<sup>39</sup> 18th La. Reports, 315; 1st La. Ann., 98, Marriage of Col. Abraham Morehouse "without benefit of clergy."

\* Cantillon Settlement: *Early Census Tables of Louisiana*, La. Hist. Qy. No. 13, April, 1930, p. 224; *French Ship Lists, 1713-1724*, La. Hist. Qy., Vol. 15, No. 1, Jan., 1932, pp. 73-75; Carte, *Province of Louisiana*, Royal Academy Sciences, Paris, 1720. Villemont Settlement: "Louisiana Passengers, 1713-1724," Library La. State Museum, pp. 49, 80; DeAnville's *Carte de la Louisiane*, Paris, 1732, published 1752; Monette, *Valley of the Mississippi*, Vol. 1, p. 262.

The Governor and his party, reared under the old county system, desired a division of the Territory into counties; and it may be noted that the Ordinance of 1787, made applicable to the Territory by the act of March 2, 1805 (though not yet effective here), contemplated such a division. While the Spanish ecclesiastical laws were never a part of the law of Louisiana after its cession to the United States,<sup>40</sup> the ancient inhabitants adhered to their desire for a civil parish. Counties were created. By force of necessity they had, in most instances, to be described as being composed of known ecclesiastical parishes.

The act of the Legislative Council creating these counties is eight pages long and contains twenty-five sections. The offices of county judge, sheriff, coroner, clerk, and treasurer were created for each county. The County Judge was to be a justice of the peace, and additional justices of the peace were to be commissioned in the discretion of the Governor. The terms of the county judge and justices of the peace were fixed at four years; the other officers were to hold their appointments, respectively, during the pleasure of the Governor.

The County Judge was required to hold four terms of court per year in his county, as fixed in the statute, except that in the County of Orleans the court was required to begin a sitting on the 3rd Monday in every month. The County Court had jurisdiction in all civil cases of the value of fifty dollars and upwards which should arise on contract, where the defendant resided in the county; and exclusive jurisdiction in actions for damages from torts where the demand did not exceed one hundred dollars. The method of procedure and practice in the county courts was detailed at length, including the method and practice on appeal to the Superior Court.<sup>41</sup>

The Justices of the Peace were given exclusive jurisdiction, without appeal, in all civil matters of less than fifty dollars in value, and the procedure before the Justice's court was fully outlined. The County Judge was required to appoint a Constable in each *Parish*.

The duties of the sheriff, coroner, clerk, and treasurer were all set forth; and it was finally provided that: "Until the first term of court hereby provided for is held, the justices of the

<sup>40</sup> Opinion by Justice Bullard in *Wardens of the Church of St. Louis of New Orleans versus Antoine Blanc*, Bishop of New Orleans, 8 Rob. (1844), pp. 51-92.

<sup>41</sup> For the organization and functioning of the first County Courts, see Abstract of the Minutes of the Concordia County Court, Oct. Term, 1805 to April Term, 1807, in Calhoun's *History of Concordia Parish, La. Hist. Qy.*, Vol. 15, No. 2 (April, 1932), pp. 224-230.

peace and commandants now appointed shall continue to have and execute all jurisdiction in civil causes now vested in them by law, and then and from such time, the offices of civil commandant shall cease and be abolished, and the civil justices of the peace shall have and exercise the civil jurisdiction vested in them by this act, and no other."

After the creation of the counties and county offices, the next logical and necessary step was the authorization of tax levies for their expense. On March 3, 1805, the Governor approved an act entitled: "An act concerning county funds." It provided that the Judge of each County Court, with the consent of a majority of the justices of the peace thereof,

"shall impose and direct a collection of taxes upon real and personal property, or the one or the other thereof, for the purpose of raising funds for the purchase, erecting or hiring, as they may deem most fit, a court house; for erecting and maintaining a good and sufficient gaol within each county, and for paying the expenses of prosecuting criminals, and all other expenses whatsoever which are or which may be by law chargeable to the county funds respectively."

It was made the duty of the sheriff to collect, and of the treasurer to receive, the taxes so imposed; and county funds were to be disbursed on the warrant or certificate of the county judge, countersigned by the county clerk.<sup>42</sup>

The act of March 3, 1805, invested the county judges and justices of the peace with additional jurisdiction.<sup>43</sup> "From the day they are sworn, the offices of civil commandant and syndics of such counties shall cease; and such judge and justices, respectively, shall be vested with all the powers and subject to all the duties which, on the 13th of September, 1804, might have been lawfully exercised by the Civil Commandant,<sup>44</sup> or which they were bound to perform in all cases of intestacies, proofs of wills, inventories, and recording of deeds, conveyances and contracts." The justices of the peace were also empowered to conduct preliminary hearings in criminal matters and to accept bail in crim-

<sup>42</sup> Acts of 1805, C. XLII, p. 384. This act bears an approval date anterior to that creating the counties, but evidently was passed afterwards. It would seem that in this, and other instances, acts were not approved by the Governor in the chronological order of their passage.

<sup>43</sup> Acts of 1805, C. XLIV, pp. 388 et. seq. Same comment as Note 42.

<sup>44</sup> For the duties vested in the *Spanish Commandants and Syndics*, see Robertson, *op. cit.*, Vol. 1, pp. 208, 209, 217, quoting *An Account of Louisiana*, pp. 32-40.



inal cases, unless the offense was punishable by death or was exclusively cognizable by the Superior Court. "The County Courts, respectively, shall have jurisdiction of all crimes except those which are capital and some others wherein cognizance shall hereafter be given exclusively to the Superior Court."

Section Seven made it the duty of the *Clerk* of the County Court "to prosecute on the part of the territory for all crimes and offenses before the courts of such counties respectively;" but at the second session of the Legislative Council, by act approved July 3, 1805,<sup>45</sup> the office of Prosecuting Attorney was created for each county, and his fees were fixed as follows: For drawing indictment and information, three dollars; for attending grand jury in each case, four dollars, and for arguing each case, ten dollars.

The act approved July 3, 1805,<sup>46</sup> broadened the jurisdiction of the judges of the County Court in both civil and criminal matters; vested them with power to issue writs of *habeas corpus*; and directed the advertisement of property taken in execution to be in both the English and French languages. It also provided that the seat of justice of each county should be determined by the County Judge "by and with the consent of a plurality of the justices of the peace thereof;" and it empowered the County Judge to summon the justices of the peace to a meeting with him, in his discretion, one third of all the justices of the county to constitute a quorum and the expense of the convocation to be paid from county funds. Upon consent of both litigants pleadings were directed to be presented in the English language only.

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#### IV.

##### THE FIRST GENERAL ASSEMBLY

Twenty-five Representatives having been elected and a Legislative Council of five members having been commissioned by the President, the first legislative body ever to assemble in Louisiana in which the people had a voice in choosing, known as the "First Legislature," convened in New Orleans on March 25, 1806. The old Legislative Council of thirteen members was now defunct. The acts of this new body, the lower house of which came

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<sup>45</sup> Acts 1805, C. 111, pp. 42-46.

<sup>46</sup> Acts 1805, C. ———.

fresh from the people, were directed to be styled: "*Be it enacted by the Legislative Council and House of Representatives of the Territory of Orleans, in General Assembly Convened.*"

The act approved May 2, 1806,<sup>47</sup> in its preamble recited the act of the Legislative Council of 1805 for the institution of an University in the Territory and for vesting in it and its Regents the administration of the territorial schools to be established. It further recited: that "said act cannot have before some length of time its full execution and that until that desirable object is obtained, the youth of the territory are generally in want of the first means of instruction." It was made the duty of the sheriff of each county, excepting Orleans,

"to call by circular an assembly of the fathers of families of said county, at a time and place convenient to the greatest number of inhabitants, said persons so assembled to elect five commissioners, whose duty will be to adopt such plan for establishing public free schools at the expense of the county as to them shall seem most convenient to the population, resources and localities of the said county; and of the said plan to make their report, with due explanation to the legislature of the territory, through the representative or representatives of the said county at the beginning of the next session of the legislature."

A like report was directed to be made by the Regents of the University for the County of Orleans; and nothing in the act was to be construed as mitigating the powers theretofore reposed in the University and its Regents. While the powers conferred on the citizens by this act were merely of an advisory nature—and it does not appear from subsequent legislation that it brought forth results—it was the third official step taken in Louisiana to give the citizen a voice in his government.<sup>48</sup>

The act approved May 21, 1806, regulated "Inns and Houses of Entertainment." The county judge was authorized to issue Inn-Keeper's licenses upon the recommendation of "two respectable freeholders of the county." The licenses were limited to one year from date of issue, the fee being fixed at \$30 for the use of the county. An applicant was required to execute bond

<sup>47</sup> Acts 1806, C. IV, pp. 8-10.

<sup>48</sup> By the act of Feb. 17, 1805, the City of New Orleans was incorporated and the City Aldermen were made elective. For comprehensive analysis of this first City charter and the functioning of the first City Government, see Kendall, *op. cit.*, Vol. 1, p. 48-52; Chambers, *op. cit.*, pp. 454-456.

in the penal sum of \$500, payable to the judge and his successors in office, and

"conditioned for the constantly keeping and providing his said inn with good, clean and wholesome diet and lodging for travelers, and stabling, provender or pasturage for horses . . . and for the due observance of all laws and ordinances which may be in force in this territory relating to inn-keepers."

An inn-keeper was also required "to set up a sign, with his or her name in large characters, adjacent to the inn and also to set up in a conspicuous place in said inn a fair table of rates;" and it was made the duty of the county judge to examine and certify rate schedules every six months. Inn-keepers and others were prohibited from selling spirituous, fermented, or intoxicating liquors to any Indian or slave without the master's consent; and to any soldier or member of the militia in actual service without the permission of his commissioned officer. Sale of such liquors in less quantities than one quart, without a license, was prohibited, though merchants and shops were permitted to sell in any quantity above two quarts without such license, where not consumed on the premises. Gambling in any form in a public inn was prohibited. It was made the duty of the county judge to enforce all of these regulations.<sup>40</sup>

The act of June 4, 1806, regulating biennial elections of representatives to the Legislature, possesses some interest. These elections were to be held on the 3rd Monday of September and after sixty days proclamation by the Governor. These proclamations were directed to be communicated to the sheriffs and justices of the peace of the several counties and by each of the justices to the inhabitants of his district. In the different counties the votes were to be received by the Sheriff, in the presence and with the consent of two justices of the peace, appointed commissioners *ad hoc* by the county judge. Other provisions were made for the County of Orleans. The election was to be conducted on three consecutive days, at such hours and places as the judges or commissioners of election might name. The ballot box was required to have three different locks, each commissioner being entrusted with the key to one. Among the other suffrage qualifications borrowed from the old Ordinance in 1787, a voter must

<sup>40</sup> Acts 1806, C. X, pp. 34-44.



"possess as owner truly and *bona fide* at least fifty acres of land in the territory for at least three months preceding the election." His title was required to be exhibited to the commissioners, or in defect of title papers he was permitted to vote on affidavit. Immediately upon the expiration of the time for voting "the commissioners shall upon the spot, and publicly, make the opening of the ballots, and under their three signatures, to inform the governor of the territory of the election."<sup>50</sup>

An important statute passed at the first session of the first Legislature was the act of June 7, 1806, entitled "An act for levying a tax on real estates in the Territory of Orleans." It has a direct bearing on certain matters to be developed later. It consisted of fifteen sections and was designed to cover the whole subject of levying, assessing, and collecting a *territorial* tax on lands.<sup>51</sup> It enacted that all real estate in the territory, except that belonging to the United States and such as belonged to or was used for public, religious, and charitable purposes, should from August, 1806, be subject to an annual tax of one dollar for every five hundred dollars of assessed value.

It further provided that the judge of each county should summon and assemble within fifteen days after its promulgation,

"a jury composed of twelve principal inhabitants of his county, which inhabitants shall divide the said county into so many districts as they may think expedient, and shall afterwards name for each of said districts two inhabitants, possessors of real property, who shall be charged with the duty of visiting in person and appraising each of the real estates in their said districts at what they regard as its cash value."

One of the remarkable provisions of this statute was that an appraiser, so chosen, who declined to serve might be fined fifty dollars unless he had a satisfactory excuse. The appraisments were made under oath, and the property-owner was given a copy. The duly verified lists were to be returned to the county judge; and that official was required to make up and certify to four lists covering the whole county—one to be delivered by him to the sheriff of the county, another to the Treasurer of the Territory, another to the Clerk of the House of Representatives, and the fourth to be posted by him in his court. The tax-debtor had the

<sup>50</sup> Acts 1806, C. XIX, pp. 78-84.

<sup>51</sup> Acts 1806, C. XXXI, pp. 132-146.

right to contest the assessment in a proceeding before the county court. In that event new appraisers were appointed; and if the second appraisement exceeded or fell short of the first by a fourth part, the first appraisers were condemned to pay the Territory, out of their compensation, an amount equal to the difference in the tax. County sheriffs were charged with the collection of the taxes, and upon default in payment to institute proceedings in the county court. Failure to institute and prosecute the necessary procedure rendered the sheriff liable on his bond. His compensation was fixed at three per cent of the total amount of taxes collected and remitted by him to the territorial treasury.

At this first session of the General Assembly, by act of June 7, 1806, there was adopted the famous "Black Code," prescribing the rules and conduct to be observed with respect to negroes and other slaves in the Territory.<sup>52</sup> The statute contains forty sections and is twenty pages long. During the succeeding years it was frequently amended and some of its most stringent provisions liberalized; but, in the main, it remained operative until slavery was abolished. The enforcement of many of its provisions was entrusted to the county judges and sheriffs, justices of the peace and constables.

That this first session of the first General Assembly was not harmonious, and that much of the discontent arose out of the county court system erected under the act of 1805, is made evident by the letters of Governor Claiborne. On May 16, 1806, he wrote Secretary Madison:<sup>53</sup>

... "The Legislature of the Territory is still in session. With the best of Intentions, such a contrariety of opinion prevails as to the means of promoting the public Good, that hitherto nothing has been done, and I much doubt whether the result of their deliberations will meet either the wishes or interests of the people. The differences in language and the jealousy which exists between the Ancient and modern Louisianians are great Barriers to the Introduction of that harmony and mutual confidence which is so much desired . . .

"There are no doubt several minor causes of discontent in this quarter; but the most fruitful sources are the introduction of the English language in the Courts of Justice; the Judicial System generally and particularly the

<sup>52</sup> Acts 1806, C. XXXIII, pp. 150-190. For abstract of its main provisions, see Calhoun's *History of Concordia Parish, La. Hist. Qy.*, V. 16, No. 1, Jan., 1933, pp. 92-93.

<sup>53</sup> Official Letter Books, *op. cit.*, Vol. 3, pp. 299-300.

trial by jury, and the admission of Attorneys. The pride as well as the convenience of the Louisianians are opposed to any innovation in their language; the trial by Jury is by many considered odious, and the Lawyers are serious nuisances. . . ."

In another letter to Madison, of June 15, 1806, he again reviews these and other grievances and continues:

"I never admired the system of County Courts. The old plan of commandants was, in my opinion, best suited to the present state of the Territory; but the Legislative Council preferred the immediate introduction of a Judiciary on American principles, and I reluctantly acquiesced in the measure. I earnestly recommended to the late Legislature a revision of the system; it was admitted by all to be defective; but the members differed so much as to the means of improving it that finally they adjourned, and left the subject untouched."<sup>54</sup>

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V.

THE DIVISION INTO CIVIL PARISHES

The first act passed at the second session of the first Legislature, approved March 31, 1807, among many other things provided for, *divided Orleans Territory into nineteen parishes*.<sup>55</sup> The law contains 36 sections and is 25 pages in length, and its primary object seems to have been that expressed in its title: "An Act Supplementary to an Act entitled 'An Act providing for the Superior Court going Circuit', and for establishing Courts of Inferior Jurisdiction." This statute may be cited as one of the many examples of the crudity in confection of our early legislation. The division of the Territory into *parishes* is contained in the ninth section. The confusion and error into which historians have led us concerning the change from the "county" to the "parish" system results, most probably, from the fact that they have confined themselves to a reading of section nine only; whereas, it is necessary that we should not only properly understand this entire statute, but much subsequent legislation prior to the Constitution of 1812 and also that instrument and the acts of the Legislature for some years thereafter.

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<sup>54</sup> *Ibid.*, p. 325.

<sup>55</sup> Acts 1807, C. I, pp. 2-52.



Beyond question, such a study reveals that, notwithstanding the division into *parishes* at this time, the old twelve *counties* were not abolished. This and subsequent laws set up a *dual* system, the *county* still retaining a portion of its former autonomy. To make the matter clear it will be necessary to analyze this act at some length. Section one provided:

"That for the purpose of carrying into effect the act to which this is a supplement, the Territory (Orleans) shall be and hereby is divided into *five districts*, to be called Superior Court Districts, in the manner following, viz:

1. "The Parish of the City of New Orleans with its precincts; the Parish of St. Bernard, commonly called *La Terre aux Boeufs*; the Parish of Plaquemines; the Parish of St. Charles; and the Parish of St. John, shall compose the *First District*.
2. "The Parish of St. James; of the Ascension; of the Assumption; the settlement of La Fourche; the Parish of Iberville, including the settlement of Galvez-town, shall compose the *Second District*.
3. "That part of the Territory known by the name of Baton Rouge, Pointe Coupee, comprehending the Parish of Saint Francis, and the County of Concordia, shall compose the *Third District*.
4. "The Counties of Ouachita, Rapides and Natchitoches shall compose the *Fourth District*.
5. "The Counties of Opelousas and Attacapas shall compose the *Fifth District*.

Section two of the statute fixed the terms to be holden by the Superior Court in New Orleans and the terms it should hold each year in each of the above-named Districts, "going circuit." The succeeding sections, 3-8, related to the jurisdiction of and method of procedure and practice in the Superior Court, more particularly in criminal cases. The eighth section provided:

"That for each *Superior Court District*, there shall be appointed a Sheriff, whose duty it shall be to execute all orders, writs, judgments and decrees within their District, which Sheriff shall be entitled to such fees as now are or may be hereafter established by law . . . and there shall also be appointed a Clerk in each District, who shall perform the same duties and receive the same emoluments as are now by law established for the Clerk of the Superior Court."

The ninth section of the act reads:

"That the said territory shall be and the same is hereby divided into *nineteen parishes*, as follows, to-wit:

1. "The City of New Orleans, with its precincts as they formerly stood, shall form the first parish;
2. "The Parish of Saint Bernard, commonly called the *Terre-aux-Boeufs*, shall form the second;
3. "The third Parish, called the Parish of Plaquemines, shall comprehend all that part of the country on both sides of the Mississippi below the Parish (sic) St. Bernard as far as the Balize;
4. "The Parish of St. Charles shall form the fourth parish;
5. "The Parish of St. John Baptist shall form the fifth;
6. "The Parish of St. James shall form the sixth;
7. "The Parish of Ascension shall form the seventh;
8. "The settlement of LaFourche shall be divided into two parishes, the nearest of which to the river shall form the eighth parish under the name of the Parish of Assumption, and shall include one-half of the population;
9. "The ninth parish shall consist of the other settlements in the lower part of LaFourche, and shall be called the *Interior Parish*;
10. "The Parish of Iberville, including the settlements of Galvez-town, shall form the tenth;
11. "That part of the territory known by the name of Baton Rouge, from that part which is opposite the bayou of Manchac until the lowest part of the mouth of the False River, shall form the eleventh;<sup>88</sup>
12. "Pointe Coupee shall comprehend the Parish of St. Francis, and shall form the twelfth;
13. "The County of Concordia as now established shall form the thirteenth;
14. "The settlements of Ouachita shall form the fourteenth;
15. "The settlement of Rapides and its former dependencies shall form the fifteenth;
16. "The Avoyelles shall form the sixteenth;
17. "The Parish of Natchitoches shall comprehend the Parish of St. Francis, and shall form the seventeenth;
18. "The Parish of St. Landry in the Opelousas, shall form the eighteenth;
19. "And the Parish of the Attacapas, called the Parish of St. Martin, shall form the nineteenth.

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<sup>88</sup> This did not include what is now East Baton Rouge.

The statute proceeds:

"And in case of any difficulty relative to the boundaries of the respective parishes above described, it shall be the duty of the person exercising the powers of governor of the territory to declare and establish the boundaries between those parishes in relation to which doubts may have arisen, and to give notice of such declaration and establishment by public proclamation and otherwise as may be deemed expedient, and to submit the same to the next session of the Legislature."<sup>57</sup>

By the tenth section, the existing offices of county judge, clerk, sheriff, coroner, and treasurer were abolished. In lieu thereof, the office of *Parish Judge* for each parish was created, and this officer was invested with all of the duties of these several county officers within the limits of his parish:

"That in lieu of judges of the county court, clerks, sheriffs, coroners and treasurers of the said counties, there shall be established in each parish of the territory, now existing or to exist hereafter, a judge, with civil, criminal and police jurisdiction, to decide all cases which may arise within the limits of the said parish and shall be brought before his tribunal, which judge shall be a landholder in the territory, and shall be named and commissioned by the governor for a term of four years."

The ensuing sections, 11-16, defined the jurisdiction of the parish judge in civil, criminal, probate, and other matters. Sections 17-24 prescribed rules of procedure and practice before the Parish Court, proceedings for appeal to the Superior Court going circuit, punishment for contempts, examination of witnesses, etc.

Section twenty-five provided:

"That the parish judge and justices of the peace of his parish shall have and possess all and singular the same powers and perform the same duties in and in relation to their respective parishes as the county judges and justices of the peace now have; and are bound to fulfill in and in relation to their respective counties by virtue of an act entitled 'An act concerning county funds,' and by virtue of an act entitled 'An act relative to the judges of the county courts and justices of the peace in the Territory of Orleans,' save in so far as may be in contradiction to the express provisions of this act."

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<sup>57</sup> I have been unable to find any record of executive action.



The parish judge was required to give bond of not less than \$5000, conditioned for the faithful performance of all powers vested in him, "including the faithful performance of all and singular the duties imposed on him by this act, and which are now by law performed by the clerk and sheriff of the counties."

Other sections of the law provided for the transfer of records and pending litigation from the county courts to the parish courts; the final section, 36, made the act effective two weeks after its passage, except as to the Superior Court going circuit, which was to become effective in September following.

But a provision to which we call special attention, and which seems not to have attracted the notice of our historians, is section 32, reading:

*"That the division of the territory into counties shall subsist for the purpose of making the election of the Representatives of the territory, and levying the territorial taxes."*

It will thus be seen that the fight which the Creole population had waged for a territorial subdivision into autonomous civil parishes had at last borne fruit, and with a retention of their old ecclesiastical names. A visualization of the old county subdivision is much aided by a study of Bartholomé Lafon's large and splendidly executed county map of Orleans Territory, published in 1806; it is also valuable in a study of the parish division of 1807. Lafon notes this dual system in his interesting *Annuaire Louisianais*, published in 1808 or 1809, in which he says:<sup>55</sup>

*"Le Territoire, en outre de la division en comtes, a ete, l'annee passee, divise en paroisses. Chacune de ces paroisses forme une jurisdiction inferieure, les limites n'en sont pas bien determinees; la division en comtes existe toujours pour la nomination des representans; la perception des impots et les arpentages des terres pour l'enregistrement."*

In an ecclesiastical sense, according to Bouvier, a *parish* is defined as:

*"The territory committed to the charge of a parson, or vicar, or other minister,"* and he cites as authority: "Ayl. Par. 4; 2 Blackstone's Commentaries, 112; Hoffman

<sup>55</sup> Lafon, Bartholomé, *Annuaire Louisianais pour l'année 1809, comprenant le calendrier pour 1809*. Nouvelle-Orleans, 1808. (First Directory). This interesting and rare book (Howard Memorial Library) gives the names of the officers of the different parishes, pp. 168-178.

on Ecclesiastical law;" and for their origin he cites: "2nd. Hallam, Middle Ages, c. 7, p 144; 1st Pollock & Maitland, 560."<sup>59</sup>

As a civil division of the State of Louisiana, the definition given in the text of *Corpus Juris*, which has the decisions of the Louisiana Supreme Court for its authority, is:

"In Louisiana, a civil division of the state, corresponding to a *county* in other states, and like a county, so feebly endowed with corporate life that it is regarded rather as a quasi corporation, deriving such powers as it possesses, not from special charters, but under the general laws, and existing merely as an involuntary agency of the sovereign power of the state to exercise certain functions of local government, and to perform such duties as may be imposed upon it by the sovereign. It is thus distinguished from a municipal or voluntary corporation which possesses some corporate functions and attributes."<sup>60</sup>

In the interesting case of *Sherman et.ux. versus Parish of Vermilion et.al.*, the late lamented and much beloved Chief Justice Joseph A. Breaux, a great civilian and a deep student of Louisiana's early history, as the organ of the Supreme Court, among other things, said:

"The contention of the plaintiffs is that the jurisprudence in states where a *county* or town system prevails, is necessarily different," (as to liability for negligence) "and has no application in this state. We, on the other hand, find that, whether as relates to town, county or parish, these divisions (towns, counties or parishes) have only such power as is vested in them by sovereign authority. As relates to the parishes, to meet the proposition pressed by the plaintiffs that they have greater power than towns or counties in other states, we, to some extent, traced the meaning of the word to its origin. In France, it was the ecclesiastical division of the territory—'the spiritual, and, in some particulars, temporal division,' i.e. the district in charge of a curate, and originally of the curati. The colonists of Louisiana became accustomed to similar divisions of territory in church matters. In the course of time, it was used to indicate political divisions of the state. From the earliest days, there were parishes in the territory—

<sup>59</sup> Bouvier, *op. cit.*, Vol. 3, p. 2454, *verbo* "Parish."

<sup>60</sup> *Corpus Juris*, Vol. 46, p. 1372. *Police Jury Jefferson Parish vs. McCormack*, 32 La. Ann., 624, 627; *Fischer &c. vs. Bordelon*, Pres. *Police Jury*, 52 La. Ann., 429-437, 27 So. Rep., 59-64; *Irwin vs. Police Jury*, 147 Louisiana, 325, 36 So. Rep. 263, 269.

"*paroisse*" at first, and afterwards "*parroquia*" under Spanish rule; and when the state was admitted into the Union, the French name was retained to indicate the civil divisions of the State. But the responsibility of the parishes and of the tax-payer," (for negligence, etc.) "is limited by legislation, just the same as it is in other states of the Union . . ." <sup>61</sup>

No comprehensive history of the Catholic Church of Louisiana has been published. In his inquiry for official ecclesiastical orders or decrees dividing the Province of Louisiana into twenty-one parishes (see Note No. 37), this author communicated with Loyola University of the South and with the Chancellor of the Archbishopric of New Orleans.

In an interesting reply from the Rev. James J. O'Brien, S. J., Librarian of Loyola University, among other things, he says:

"I think your explanation of how parishes came to be in Louisiana is the correct one. None of our historians bear on that point. It will be useful for you to know that there were no *real* ecclesiastical parishes in either colonial French or Spanish days in Louisiana. It was then a missionary country and more or less divided up between the Jesuits and the Capuchins. See reference to this in my lecture on the Jesuits. As a matter of fact, it was only in 1918, on the publication of the new Code of the Canon Law, that any part of the United States ceased to be missionary. Since 1918, we have regular ecclesiastical parishes throughout the United States and it no longer rates as a mere missionary field."

My letter to the Archbishopric of New Orleans was referred by the Most Reverend Archbishop Shaw to the Reverend F. L. Gassler, Rector of St. Joseph's Church at Baton Rouge, with the request that Father Gassler either furnish me with the desired information or tender me in his behalf the privilege of making research in the Diocesan Library and Archives. Regrettably, I have not had the opportunity to take advantage of His Grace's permission, nor would I be competent to examine original Spanish records.

In his letter to me Father Gassler says:

" . . . I have never found an opportunity of going to the fountain-head—i.e.—the Archdiocesan archives . . . The ecclesiastical parishes at the time of the transfer of Lou-

<sup>61</sup> 51 La. Annual, 880; 25 So. Rep., 538.



isiana to the United States were: Orleans—St. Louis Cathedral; St. Bernard; St. Charles; St. John the Baptist; St. James; St. Gabriel of Iberville; St. Josephs, also known as 'la iglesia de los Dolores', Baton Rouge; Feliciana; St. Francis, Pointe Coupee; Ascension; Assumption; St. Martin of the Attakapas; St. Landry (Leander) of the Opelousas; and Natchitoches." (cf. Kendall's *New Orleans*, 11,698,699).

Father Gassler further says:

"... I am unable to state, not having any document to guide me, how far back the civil territorial limits coincided with the ecclesiastical limits. Although a missionary country during the French and Spanish regimes, the different parishes had more or less defined territorial limits. Under the Spanish regime those parishes enjoyed the privileges of canonically established churches. Such a church is bound to have territorial limits."

Be this as it may, we had such ecclesiastical parishes *de facto* in Colonial Louisiana even though they may not have been parishes *de jure* within the strict letter of the canonical law of that day; and the extent of most of our twelve civil counties of 1805 and of our nineteen civil parishes of 1807 must be found in hitherto undiscovered or unpublished ecclesiastical records. The author of this paper hopes, in which the Editor of the Louisiana Historical Quarterly concurs, that Father O'Brien or Father Gassler, or some other scholar of the Catholic Church of Louisiana, will be able later to supplement this feature of our work.

The act of February 27, 1807, apportioned among the *counties* the number of representatives to be elected to the Legislature, "to become effective from and after the 3rd Monday in September next, and to continue to be in force until the 3rd Monday in September, 1809." The several counties are named, but there is no reference to parishes.<sup>62</sup>

By the act of April 14, 1807, a lengthy fee bill for the parish judges was adopted, and from its examination an idea may be obtained of the multifarious duties of that official.<sup>63</sup> Among other things, he had taken the place of the Clerk as a notary and as recorder of deeds, mortgages, and conveyances. The fees al-

<sup>62</sup> Acts 1807, C. VII, pp. 76-78.

<sup>63</sup> Acts 1807, C. II, pp. 54-68. In case of *State vs. Judge*, 12 La. Annual, 405, (1857) Chief Justice Merriek interestingly discusses the many duties of the old parish judges under the Constitution of 1812.

lowed him for performing the duties theretofore assigned to the Coroner were: Viewing a dead body, five dollars; summoning and qualifying the inquest, drawing and returning the inquisition, ten dollars.<sup>64</sup>

## VI.

### THE GENESIS OF THE POLICE JURY

The origin of that important parish institution known to-day as the *Police Jury* is to be found in the act of April 6, 1807, although it is not designated in that act as a "Police Jury" or by any other name.<sup>65</sup> As we shall see later, it was subsequently known as the "Police Assembly" and finally as the "Police Jury." The provision for the creation and functioning of this body is neatly tucked away in the law referred to, which bears the title "An Act relative to roads, levees, and the police of cattle." It provides:

"That the parish judges, together with the justices of the peace and a *jury of twelve inhabitants*, shall meet once in the year, to-wit, on the first Monday in July of every year, or oftener if necessary at the request of the parish judge, in order to deliberate upon and make all necessary regulations relative to roads and levees, according as circumstances may require when changes or extraordinary works may have become necessary.

"That the aforesaid judge, justices of the peace and jury, are fully authorized to fix the time for cattle to run at large; to decide on the necessity of fences and their form; and to order and provide for the execution of whatever concerns the *interior and local police* and administration of their parish; and likewise to undertake all improvements which they may deem useful to the community, whether they consist of new roads, bridges, levees or navigation, and the expenses attending such works shall be shared by all the inhabitants and distributed among them in the manner which shall seem the most just and the most convenient to their interests."

This is the original blanket charter which furnished the foundation upon which was builded the present frame-work of local parish administration. It was spoken of in this act as a

<sup>64</sup> The coroner was an ancient officer of the English common law. The office was considered one of great honor, and originally carried no fees or emoluments, and only "lawful and discreet knights" were eligible to hold it. The lord chief justice of the King's Bench is said to be the principal coroner of the kingdom, and may in any place exercise the jurisdiction of the coroner—Encyc. Britannica, Vol 6, p. 381, "Coroner."

<sup>65</sup> Acts 1807, C. XVIII, pp. 132-136.

*jury* because it was composed of the same number of men as a grand or petit jury<sup>66</sup> and for the reason that it was selected and summoned by the chief judicial officer of the parish; it was vested with the power of the "*local police*" of the parish.

The act imposed upon the parish judge the execution of all regulations which should be made under it and required that he publish them,

"and cause them to be notified to all the parishioners by means of a circular letter, and to be posted up at the door of the parish church and other places, in order that nobody may plead ignorance of the same."

Section four of the statute required the parish judge, in company with two inhabitants, to inspect all works which had been ordered made; and any inhabitant in default in the execution of his work according to the regulations was then notified by the judge to complete the same in a given time. If the inhabitant still remained in default, the statute read:

"The judge shall order the work to be made at his expense, either by the job or by the inhabitants of the parish, each of whom shall send to the spot a number of able-bodied negroes proportioned to the strength of his gang, for the hire of which slaves, they shall receive one dollar per day; and the said judge is hereby fully authorized to compel the inhabitant disobedient to regulations to pay all the expenses by him occasioned, even by the seizure and sale of his property, if the case requires it."

A direct tax of \$34,541.00 was levied by the Act approved April 10, 1807, for the benefit of the Territorial treasury.<sup>67</sup> By section one this amount was apportioned against each of the *twelve counties*, and the manner of assessing and collecting was fully set forth. The procedure was much the same as heretofore noted. But as the offices of county judge and sheriff had been abolished, and the new sheriffs, as we have seen, were *district* sheriffs whose duties made them merely officers of the Superior Court, it was necessary to set up some additional machinery

<sup>66</sup> "In a *Guide to English Juries*, by a Person of Quality, 1682, (attributed to Lord Somers), the following passage occurs: 'In analogy of late the jury is reduced to the number of twelve, like as the prophets were twelve to foretell the truth; the apostles twelve to preach the truth; the discoverers twelve, sent into Canaan to seek and report the truth; and the stones twelve that the heavenly Hierusalem is built on.' Lord Coke indulged in similar speculations."—Note in *Encyc. Britannica*, Vol. 13, p. 744, "*Jury*."

<sup>67</sup> Acts 1807, C. XXI, pp. 140-166.



in accord with the reservations contained in the act of March 31, 1807. The statute brings out clearly, too, that when a given county consisted of one or more parishes, there were as many parish judges as there were parishes composing it. In order to meet the exigencies of this situation it was provided:

"That the parish judge, or judges, in cases where there may be more than one parish in a county, shall summon and cause to be assembled a jury composed of twelve principal inhabitants of the *county*, which jury shall appoint three persons, residents of the county, whose duty it shall be to examine the appraisements of real estate within the county," in the same manner as set forth in the former act.

The law further directed that after the assessment lists were made up by the appraisers,

"the parish judge, or judges, shall immediately cause to be made an equal apportionment of the sum to be paid by each landed proprietor named in such return, according to the valuation made by said appraisers, and in such manner as to produce the amount of tax apportioned by this act to said *county*, and shall make up three sets of certified tabulated returns for each parish in said county . . ."

The collection of these territorial taxes devolved upon the parish judge of each parish, so that a county had as many *ex officio* territorial tax collectors as it had parish judges. The collection of delinquent taxes was enforced by the seizure and sale, first, of the goods and chattels of the delinquent, second by the sale of his real estate, and third, it was provided that the total tax list should operate as a *lien upon the land and real estate of the parish judge* and his sureties until discharged according to law. When a judge failed to make collection or pay over, process was directed to be sued out against him by the District Sheriff in the Superior Court, with levy against his goods, chattels, and personal effects; "and for want of goods, chattels and effects, execution may be levied on the person of said judge, who may be committed to prison, there to remain until discharged by due process of law."

For the same reason it became necessary to make some changes in the existing law as to the manner of holding elections for representatives in the Legislature. As we have seen, repre-

sentatives were elective from the *counties*, and the county sheriffs and justices of the peace had been designated as the officers of election. The act of April 14, 1807, directed the parish judge to preside at the elections "jointly with two justices of the peace of the county;"

"and in the counties composed of several parishes, the judges of the different parishes shall meet together to fulfill jointly the aforesaid functions which formerly were entrusted to sheriffs. They shall preside together at the election, and they shall transmit the persons elected to the governor of this territory under their signature and seal; and if any of the said judges be unable to preside at an election, he shall cause himself to be represented by a justice of the peace of his parish, to whom he shall give an authorization *ad hoc*."<sup>68</sup>

As the office of county coroner had been abrogated, the act of March 23, 1808, made it the duty of the Governor to appoint a coroner for each Superior Court District for the execution of process and decrees of the Superior Court in cases in which the district sheriff should be a party.<sup>69</sup>

The *Parish of Catahoula*, the twentieth, was created by the act of March 23, 1808.<sup>70</sup> As recited in the act, it was to consist of "all that part of the County of Rapide known by the name of the Catahoula settlement within the following bounds: . . ." (described in detail).

To be noted in connection with the gradual evolution of the Police Jury is the act of March 25, 1808.<sup>71</sup> It will be remembered that a former statute had empowered the county judge and justices of the peace to levy *county taxes*. This act directed the parish judge to convoke on the first Monday in July of every year

"a meeting of the justices of the peace of his jurisdiction, together with a jury of twelve of the principal inhabitants of the parish, and to lay before them an exact and minute account of the employment made by him of the funds proceeding from the taxes established in said parish by virtue of an act of the Legislative Council entitled 'An Act concerning county funds'; and likewise of the produce of licenses and fines which may have been raised in

<sup>68</sup> Acts 1807, C. XXV, pp. 174-175.

<sup>69</sup> Acts 1808, C. II, p. 24.

<sup>70</sup> Acts 1808, C. X, pp. 30-32.

<sup>71</sup> Acts 1808, C. XIV, pp. 42-46.

said parish during the preceding year, which account shall be accompanied with all the documents necessary to prove the same."

The statute continued:

"After examination of said accounts and documents, the senior justice of the peace shall cause a statement of the same to be posted up at the door of the parochial church, or at some other public place, except in the Parish of Orleans, where such accounts shall be published in the newspapers in English and French;"

and the law further directed the senior justice of the peace to proceed against the parish judge, in the Superior Court, upon default of a proper accounting.

For the first time, there is now brought to our notice the relative rights of the parishes *inter sese* in the public property of the counties of which they formed a part. The act of March 31, 1808, provided that:<sup>72</sup>

"The judges of the parishes of Assumption and of the Interior, jointly with the justices of the peace and a jury of twelve inhabitants, six of whom shall be taken in each of said parishes, which inhabitants shall be freeholders in either of said parishes, be, and they are hereby, authorized to sell or cause to be sold, at public auction, all public buildings which may have been either bought or built for the use of the *late* county of LaFourche; and that each of these two parishes shall be entitled to the amount of the property thus sold at public auction, in proportion to the sum formerly paid by each of these parishes for the purchasing or the building of said edifices, according to the tax levied for that purpose in each of these parishes by virtue of an act entitled 'An Act concerning county funds'."

The act of February 27, 1809, continued the former apportionment among the twelve counties of the representatives in the Legislature. "Said apportionment shall continue in force until otherwise provided"; and this legislative action evidenced a continuation of the original counties as political subdivisions.<sup>73</sup>

An act "Altering the lines separating the County of Natchitoches from the County of Rapides," was approved March 16, 1809. The new boundary line was delineated.<sup>74</sup>

<sup>72</sup> Acts 1808, C. XXXIII, pp. 142-144.

<sup>73</sup> Acts 1809, C. VIII, p. 18.

<sup>74</sup> Acts 1809, C. XVI, pp. 40-41.



On March 9, 1809, an act was passed "to remove certain doubts as to the northern limits of the County of Concordia"; and the northern limit of the county was extended up the Mississippi "as far north as the Walnut Hills," opposite Vicksburg.<sup>75</sup>

The act of March 20, 1809, was passed "to remove certain doubts relative to the limits of the Parishes of New Orleans, Plaquemines, and St. Bernard."<sup>76</sup> The new boundaries of these several parishes were given at length; but a recital in this paper of the various parish boundaries in detail, with the frequent changes, would result only in confusion and in uselessly encumbering this work.

The abolition of the old county sheriffs and the shifting of their duties to the parish judges, with the creation of district sheriffs as executive officers of the Superior Court only, seems not to have been practical. The act of March 16, 1810, entitled "An act for regulating the Inferior Courts," created the office of parish sheriff.<sup>77</sup> It provided:

"That there shall be appointed a sheriff in each of the parishes of this territory, except in the Parish of Orleans, whose duty it shall be to execute all warrants, orders, writs or other process of the Judges of those parishes . . . and who shall give bond in the sum of not less than \$3000 . . ."

This act did not abolish the office of district sheriff. Parish Sheriffs were made keepers of the jails and were to receive all persons committed to custody by the justices of the peace or judge of the parish for any offenses against the territory, "and deliver them over to the Sheriff of the Superior Court for their district on the first day of the term, for which they shall receive a reasonable indemnity to be allowed them by the *police assembly* of the parish." Further:

"That the sheriffs of the parish courts shall receive the same emoluments which were allowed to the parish judges when they fulfill the functions of sheriffs; and that they shall receive the emoluments allowed to constables employed by the parish judge when they shall fulfill the functions which were performed by said constables: That the

<sup>75</sup> Acts 1809, C. XXII, pp. 54, 55.

<sup>76</sup> Acts 1809, C. XXX, pp. 80, 81.

<sup>77</sup> Acts 1810, C. VIII, pp. 14-18.

parish judges shall continue to discharge the duties of sheriffs until the sheriffs to be appointed by virtue of the present act be in office."

It is worthy of note here that this is the first time in our legislation that the body composed of the parish judge, the justices of the peace, and twelve freeholders is called or designated a *police assembly*.

The act of March 16, 1810, regulated the drawing of grand and petit jury venires.<sup>78</sup> Those eligible for this service must be: white, free, male inhabitants of the parish, citizens of the United States, above twenty-one years of age, and house-keepers of one year's residence in the parish. They were drawn in the manner following: The parish sheriff made up a list of such persons of his parish and then wrote the names on ballots which were put in a box with two locks, one key being kept by the sheriff and the other by the parish judge. Upon the ordering of a jury by the parish court, the box was opened by the sheriff in the presence of the judge, and the names of eighteen jurors were drawn and summoned for service.

The parish sheriff was also required to send a copy of his jury list to the sheriff of his Superior Court district; and the Superior Court sheriff prepared a similar jury box, its two keys being kept by the sheriff and clerk, respectively, of the Superior Court. Thirty days before a session of the Superior Court, the District Clerk, in the presence of two justices of the peace, drew out of the several jury boxes for each parish in the district a proportionate number of names to make up a total jury panel of forty-eight. These were summoned by the District Sheriff to appear for grand and petit jury service at the sitting of the Superior Court for the district.

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VII.

POSSESSION TAKEN OF FLORIDA PARISHES AREA

The country lying south of the Mississippi Territory and east of the Mississippi River and extending to the Perdido River—the Spanish province of West Florida, which had always been claimed by the United States as being part of its acquisition under the cession of 1803 and which had been a bone of continuous

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<sup>78</sup> Acts 1810, C. X, pp. 24-28.

diplomatic contention between the United States and Spain from that date—finally threw off the Spanish yoke when the “American” residents of that area captured the Spanish fort at Baton Rouge in 1810.<sup>79</sup>

In the act of Congress creating Orleans Territory its limits were described in such manner as to include this West Florida area, but without a designation of it *eo nomine*. After the Spaniards had withdrawn, on October 27, 1810, President Madison issued his proclamation for the taking of possession in the name and on behalf of the United States, as a part of Orleans Territory. This proclamation directed Governor Claiborne to take possession and “to exercise over the said territory the authorities and functions legally appertaining to his office.”<sup>80</sup>

Thereafter, on December 7, 1810, Governor Claiborne issued his Ordinance to the effect that: “So much of the Territory of Orleans as lies ‘south of the Mississippi Territory and eastward of the river Mississippi, and extending to the Perdido’ shall constitute one *county*, to be known by the name of Feliciana.”<sup>81</sup>

On the 22nd of December, 1810, Governor Claiborne issued a second proclamation or ordinance establishing within the county of Feliciana four parishes having the following limits:

1. “All that tract of country lying below the boundary of Mississippi Territory, and between the most eastern branch of Thompson’s Creek and the river Mississippi, shall form the first Parish, and shall be called the *Parish of Feliciana*.”
2. “All that tract of country lying between the most eastern branch of Thompson’s Creek and the River Iberville, and extending from the river Mississippi to the Amite, shall form the second parish, to be called the *Parish of East Baton Rouge*.”
3. “All that tract of country lying below the boundary of the Mississippi Territory, and between the Amite and the River Ponchitoola, which empties into the Lake Morepas (*sic*), shall form the third, to be called the *Parish of St. Helena*.”
4. “And all that tract of country east of the Ponchitoola, including the settlements of Chifonta, Bogcheto and Pearl Rivers shall form the fourth Parish, to be called

<sup>79</sup> Gayarré, *op. cit.*, Vol. 4, pp. 229-230; Burns, Francis P., *West Florida and the La. Purchase*, La. Hist. Qy., Vol. 15, No. 3, July, 1932, pp. 391-416. Also Kendall: *Documents Concerning the West Florida Revolution, 1810*, La. Hist. Qy., Vol. 17, No. 1, Jan., 1934.

<sup>80</sup> Messages and Papers, *op. cit.*, Vol. 1, 480, 481.

<sup>81</sup> Published in appendix to bound volume acts of Legislature 1811.



the *Parish of St. Tammany*: within the residue of the County of Feliciana there shall be formed such other parishes as may hereafter be deemed expedient."<sup>82</sup>

By subsequent Ordinances of the 4th and 26th of January, 1811, Governor Claiborne created two other parishes in the County of Feliciana, both lying east of Pearl River and south of Mississippi Territory, being the parishes of *Beloxi* and *Pascagoula*.<sup>83</sup>

In furtherance of the exercise of governmental authority over this newly-possessed area, on February 5, 1811, the Legislature passed an act giving it five representatives in the Legislature; three from the parishes of Feliciana and East Baton Rouge, one from the parishes of St. Helena and St. Tammany, and one from the parishes of Beloxi (*sic*) and Pascagoula.<sup>84</sup>

Anent the Police Jury, the act of March 6, 1811, being an act for the establishment of the Town of Vidalia, for the first time designates the parish administrative body as a *police jury* in the following provision:

"... and the *police jury* of the Parish of Concordia shall have the power, and it is hereby made their duty, to provide regulations for the internal police of said town..."<sup>85</sup>

The act of March 20, 1811, "for better defining the limits of the County of Concordia, and dividing the same into two parishes, and for other purposes," provided by section one:

"That from and after the passage of this act the limits of the *County of Concordia* shall continue from Lake Tensasau to the bayou Macon, and ascending said bayou, which shall be the dividing line between the Counties of Concordia and Ouachita, to the 33rd degree of north latitude; thence down east to the Mississippi River, and thence down the same to the place of beginning."

And the second section of the act reads:

"That the said County of Concordia shall be and the same is hereby divided into *two parishes*, to be called and known by the names of Concordia and Warren Parishes."

<sup>82</sup> In *Ibid.*, also in *Official Letter Books*, *op. cit.*, V. 5, p. 64.

<sup>83</sup> In Appendix to acts of 1811.

<sup>84</sup> Acts 1811, C. 1, pp. 2-6. See the voluminous correspondence in the first half of Vol. 5 of *Official Letter Books* for steps taken by Gov. Claiborne for taking possession, and concerning the West Florida Convention, the State of West Florida, the acts of the Legislature, and the appointment and functioning of the first civil officers in that area; also Carter, Judge Prentiss B., *The History of Washington Parish*, La. Hist. Qy., Vol. 14, No. 1, Jan. 1931, pp. 36-59.

<sup>85</sup> Acts 1811, C. VII, pp. 22, 23.

The third and fourth sections described the boundaries of the parishes of Concordia and Warren, respectively, within the limits of the County of Concordia. Other sections provided for the appointment of a parish judge and other officers for the Parish of Warren, assigned it to the Third Superior Court District, and regulated the proration of territorial taxes between the counties of Concordia and Ouachita made necessary by the rearrangement of their boundaries.<sup>86</sup>

In his *History of Concordia Parish*, in commenting on this act, this writer said:

This act is a very peculiar piece of legislation as the *County* of Concordia is first recreated by Section One and immediately subdivided into two Parishes. Why this method was adopted is inexplicable.<sup>87</sup>

It was not a case of legislative bungling, which was the writer's opinion at the time, but it was a logical and purposeful step in carrying forward the dual county-parish system which our present study discloses.

The act of April 9, 1811,<sup>88</sup> appropriated \$39,000 for the institution of colleges and schools in Orleans Territory, to be administered by the Regents of the University of Orleans. Fifteen thousand dollars of the appropriation was for the institution of a college in New Orleans, "and a sum not exceeding two thousand dollars for the institution of one or more schools in each of the *Counties* of this Territory, except in the County of Orleans." The Regents of the University were charged with the appointment in each county of three local administrators of the schools and school funds; and the statute continued:

"That a sum not exceeding \$3,000.00 is hereby annually appropriated for the support of the College of New Orleans, from one year after the said college shall have been opened for the reception of students; and that a sum not exceeding \$500.00 is annually appropriated for the support of the school or schools of each County, instituted by virtue of this act, one year after the said schools shall have been respectively opened for the reception of students."

<sup>86</sup> Acts 1811, C. X, pp. 34-40.

<sup>87</sup> La. Hist. Qy., Vol. 15, No. 2, Apr., 1932, pp. 222, 223.

<sup>88</sup> Acts 1811, C. XVIII, pp. 64-70; for discussion of this and other early acts, see *Schools of New Orleans in First Quarter of 19th. Century* by Prof. Stuart Grayson Noble, La. Hist. Qy., Vol. 14, No. 1, Jan., 1931, pp. 65-78.

On April 10, 1811, another act was passed redefining the boundaries or limits of the parishes of New Orleans, Plaquemines, and St. Bernard.<sup>80</sup>

By act approved April 10, 1811, two additional Superior Court Districts were created: the Sixth, "to be composed of the *counties* of Ouachita, of Concordia, and the *Parish* of Catahoula," and the Seventh, "to comprise the County of Feliciana."<sup>81</sup>

The act of April 17, 1811, created two parishes within the County of Attakapas, to be known, respectively, as the Parish of St. Martin and the Parish of St. Mary, and defined their limits.<sup>81</sup>

The act approved April 24, 1811, defined anew the boundaries of the six parishes within the County of Feliciana, that is to say, the parishes of Feliciana, East Baton Rouge, St. Helena, St. Tammany, Biloxi, and Pascagoula.<sup>82</sup> By act of April 29, 1811, it was provided that the *County* of Feliciana should pay six thousand dollars as its prorata of the Territorial tax;<sup>83</sup> by another act of the same date a census of the inhabitants of the *County* of Feliciana was directed to be made "by order of the *parish jury* of each respective parish of said County." A copy of the same was to be returned by the several parish judges to the Governor by October, 1811.<sup>84</sup>

The act of April 30, 1811, made the old parish meeting or police assembly elective instead of appointive by the parish judge as theretofore. Up to this time the only elective officers in the Territory were the aldermen in the City of New Orleans and the representatives in the Legislature. This law also designated this body as a "Police Jury." Quoting:

"That the parish meeting, or police jury, which was before composed of the parish judge, the justices of the peace and a jury of inhabitants appointed by the judge, shall be composed for the future of a jury of twelve inhabitants presided (*sic*) by the parish judge, or in his absence by one of the members of the jury, elected by ballot by the said parish meeting, in the manner hereinafter prescribed, to-wit:

"On the 2nd Monday of June next (1811), the inhabitants of the several parishes of this territory who shall be qualified to vote, shall meet at such place as the parish judges of the respective parishes shall appoint, and they

<sup>80</sup> Acts 1811, C. XIX, pp. 72-73.

<sup>81</sup> Acts 1811, C. XXI, pp. 80-84.

<sup>82</sup> Acts 1811, C. XXIV, pp. 104-106.

<sup>83</sup> Acts 1811, C. XXVIII, pp. 120-124.

<sup>84</sup> Acts 1811, C. XXXII, pp. 144, 145.

<sup>85</sup> Acts 1811, p. 202.



shall elect by ballot twelve respectable inhabitants, and owners of a freehold in said parish, to be members of the *Police Jury*."

The statute further provided the method of holding the election by secret ballot, and for the certification of the result; that jurors should hold office for two years; and that nine members should constitute a quorum. Parish judges were enjoined to summon the police jury into session upon the petition of twelve freehold inhabitants. The act empowered the police jury "to establish parish *gendarmerie*, whose duty it shall be specially to go after runaway negroes, and to maintain good order among the slaves, provided always that the officers shall be appointed by the Governor."<sup>95</sup>

## VIII.

### THE CONSTITUTION OF 1812

We have arrived at that interesting period at which Orleans Territory is about to become the State of Louisiana. On February 16, 1811, President Madison approved the act of Congress entitled: "An act to enable the people of the Territory of Orleans to form a constitution and state government, and for the admission of such state into the Union, on an equal footing with the original states; and for other purposes."<sup>96</sup>

It is unnecessary for us to review the interesting debates in the halls of Congress on this bill—the whole subject has been fully covered by Martin, Gayarré,<sup>97</sup> and other Louisiana historians. Nor is it necessary for us to discuss the attitude of the members of the constitutional convention thereafter held and the debates which took place on the floor.<sup>98</sup> Some of the provisions

<sup>95</sup> Acts 1811, C. XXXVI, pp. 180-184.

<sup>96</sup> 2 *Stats. at Large*, p. 641; pub. in full with Territorial Acts of 1811.

<sup>97</sup> Gayarré, *op. cit.*, Vol. 4, pp. 247-265.

<sup>98</sup> Gayarré, *op. cit.*, Vol. 4, pp. 268-272. In forwarding to the Secretary of State of the U. S., a memorial adopted by the Territorial Legislature in favor of statehood, Governor Claiborne, on May 18, 1809, took occasion to reiterate his opposition: "... The Govt. of the Ty. in its present shape is with some difficulty administered; & as much power has been vested in the people as is (for the present) likely to be used with discretion. Our population is a mixed one; & composed of very discordant materials; But the mass of the Inhabitants still entertain strong prejudices in favor of their Ancient Laws and usages & should the immediate controul of the Gen. Govt. over this Ty. be now withdrawn, those great principles of Jurisprudence, so much admired in the U. S., would not meet here that patronage which the genl. Interest require . . ."—*Official Letter Books, op. cit.*, Vol. 4, pp. 360-363. But two years later he was of a different view: "... I am happy to find that this Territory is likely to be admitted into the Union as a Sister State; I do not believe, Sir, that the Government has anything to apprehend from the population of this District; on the contrary I shall be greatly disappointed if the politics of the new State are not found to be in unison with the principles of the present administration . . ."—*Letter of Feby. 18, 1811, Off. Letter Books, V, 157, 158.*

of this act of Congress and the steps which were taken by the Legislature of the Territory in setting up the convention machinery are pertinent.

The act of Congress provided: "That the inhabitants of all that part of the territory or country ceded under the name of Louisiana, by the treaty made at Paris on the 30th day of April, 1803, between the United States and France, contained within the following limits, that is to say:

Beginning at the mouth of the river Sabine, thence by a line to be drawn along the middle of said river, including all of its islands, to the 32nd degree of latitude, thence due north, to the northernmost part of the 33rd degree of north latitude; thence along the said parallel of latitude to the river Mississippi; thence down the said river to the river Iberville; and from thence along the middle of said river and lakes Maurepas and Pontchartrain, to the gulf of Mexico; thence bounded by the said gulf to the place of beginning, including all islands within three leagues of the coast,

be and they are hereby authorized to form for themselves a constitution and state government, and to assume such name as they may deem proper, under the provisions and upon the conditions hereinafter mentioned."

It is to be noted from this section of the statute that the old West Florida area, which had been declared a part of the Territory of Orleans by President Madison's proclamation and by the proclamation of Governor Claiborne, and which by the ordinances of Governor Claiborne and the acts of the Territorial General Assembly had been erected into the County of Feliciana and divided into six parishes, was excluded from the territorial boundaries of the proposed state. The inhabitants of this excluded area had, therefore, no voice in the election of delegates to the convention.

By section two, it was provided:

"The inhabitants qualified to vote are hereby authorized to choose representatives to form a convention who shall be apportioned among the several *counties, districts, and parishes* within the said territory of *New Orleans* in such manner as the Legislature of the said territory shall direct. The number of representatives shall not exceed sixty, and the election for representatives aforesaid shall take place on the third Monday in September next (1811),

and shall be conducted in the same manner as is now provided by the laws of said territory for electing members for the House of Representatives."

Those qualified under this act to vote must be:

"Free, white, male citizens of the United States, who shall have arrived at the age of twenty-one years, and resided within the said territory at least one year previous to the day of election, and shall have paid a territorial, county, district or parish tax; and all persons having in other respects the legal qualifications to vote for representatives in the general assembly of the territory . . ."

The members of the convention when thus elected were enjoined by the act to meet at New Orleans on the first Monday in November (the 4th), 1811;

"which convention, when met, shall first determine, by the majority of the whole number elected, whether it be expedient or not, at that time, to form a constitution or state government for the people within the said territory, and if it be determined to be expedient, then the convention shall, in like manner declare, in behalf of the people of the said territory, that it adopts the Constitution of the United States; whereupon the said convention shall be and is hereby authorized to form a constitution and state government for the people of the said territory."

The law then prescribed certain fundamental principles with which the new constitution must be in accord and provided that a certified and attested copy of the instrument so adopted must be forthwith transmitted to Congress; and that "if the same shall not be disapproved by Congress, at their next session after the receipt thereof, the said state shall be admitted into the Union upon the same footing with the original states."

The enabling act of the Legislature of Orleans Territory, passed in pursuance of this act of Congress, was approved April 24, 1811.<sup>99</sup> It recited the act of Congress at length and enacted:

<sup>99</sup> Acts 1811, C. XXIX, pp. 124-131. Gov. Claiborne's election proclamation in *Off. Letter Books*, Vol. V, 261, 262.



"That the convention shall consist of forty-five members, to be returned by the several *counties* of this Territory, in the following proportion, to-wit:

1. There shall be returned by the County of Orleans twelve representatives to the said Convention;
2. By the County of German Coast, three;
3. By the County of Acadia, four;
4. By the County of LaFourche, four;
5. By the County of Iberville, three;
6. By the County of Attakapas, five;
7. By the County of Opelousas, four;
8. By the County of Pointe Coupee, two;
9. By the County of Rapides, three;
10. By the County of Concordia, two;
11. By the County of Ouachita, one;
12. By the County of Natchitoches, two."

Section two of the act of the Legislature, fixing the qualifications of electors of delegates to the convention, is a verbatim copy of the same provision as contained in the act of Congress; the same may be said of the other provisions fixing the date of the election and the date of the assembling of the convention.

Whatever may have been the interpretation placed upon the acts of Congress constituting the organic law for the government of Orleans Territory, relative to the power of the Legislative Council or the General Assembly to create "parishes" instead of "counties," it may be observed that the act of Congress just considered authorized an apportionment of convention representatives by either counties or parishes. The Legislature apportioned the representation among the twelve original counties of 1805 rather than among the parishes created in 1807 and the additional parishes which had been subsequently organized. In the act of the Legislature under consideration the word "parish" is used only once and then only by way of reenactment of its use in the act of Congress in defining the qualifications of an elector. So then, the parishes were not represented in the Constitutional Convention except in the sense that they were county subdivisions.

The delegates having been duly elected, they assembled at New Orleans at the time required by law, and the Convention organized with the election of Julian Poydras as President and Elegius Fromentin as Secretary. After some debate it adopted a resolution to the effect that it was "expedient to form a constitution and state government"; that it adopted the Constitution of

the United States; and that the state should be known by the name of Louisiana.<sup>100</sup>

The constitution of the State of Louisiana was finally drafted, adopted, and signed on January 22, 1812. Each of the members signed as a delegate from the *county* from which he had been elected. This instrument, only fourteen printed pages in length, is said to be almost a copy of the constitution of the State of Kentucky, which was used as a model. This constitution, like that of the United States, was drawn on very broad lines and, unlike later constitutions, left the details of governmental framework to the Legislature.

Following the preamble in which the boundaries of the state are set forth the same as in the act of Congress and the enabling act of the territorial Legislature, the constitution is divided into seven Articles, each consisting of a number of Sections. Article 1 concerns the distribution of the powers of government into the three departments, legislative, executive, and judicial. Article II, consisting of 26 sections, concerns the Legislative Department; Article III, containing 23 sections, relates to the Executive Department; Article IV, made up of 12 sections, applies to the Judiciary Department; Article V has reference to Impeachments; Article VI, consisting of 25 terse sections, contains the "general provisions," being largely the "bill of rights"; and Article VII provides the mode of revising the constitution, concluding with a "Schedule" of eight sections, being the "saving provisions" of the existing territorial laws and the provisions for carrying the constitution into effect.

There will be no attempt here at a general analysis, but certain provisions must be noted as having a direct bearing on our theme. The constitution seemed to contemplate a "county" rather than a "parish" system of local government, and, in the main, "parishes" were entirely lost sight of in its provisions.

Section 5 of Article II, relating to the Legislative Department, provided:

"Elections for representatives for the several *counties* entitled to representation, shall be held at the places of holding their respective courts, or in the several election precincts into which the Legislature may think proper from time to time, to divide any or all of those counties."

<sup>100</sup> Gayarré, *op. cit.*, pp. 268-272.

Section six provided: That representation should be equal and uniform, and regulated and ascertained by the number of qualified electors in the State; that a census of the electors should be taken in 1813 and every fourth year thereafter; that "the number of representatives shall, in the several years of making these enumerations, be so fixed as not to be less than twenty-five nor more than fifty."

Under section 10 of the same Article the State was divided into fourteen *Senatorial Districts*, "which shall forever remain indivisible as follows:

The *Parishes* of St. Bernard and Plaquemines, including the country above as far as the canal (Des Pecheurs), on the east of the Mississippi, and on the west as far as Bernoudy's canal, shall form one District.

The *City of New Orleans*, beginning at Nun's plantation above, and extending below as far as the above mentioned canal (Des Pecheurs), including the inhabitants of the bayou St. John, shall form the Second District; the remainder of the *County* of Orleans shall form the Third District.

The *Counties* of German Coast, Acadia, LaFourche, Iberville, Pointe Coupee, Concordia, Attakapas, Opelousas, Rapides, Natchitoches and Ouachita, shall each form one District, and each District shall elect a Senator."

The Judicial power was "vested in a Supreme Court and inferior courts." The Supreme Court, to consist of not less than three nor more than five judges, was given appellate jurisdiction only, said jurisdiction extending to "all civil cases where the matter in dispute shall exceed the sum of \$300." The judiciary article divided the State into two Supreme Court Districts: the Eastern District, consisting of named *counties* in South Louisiana, and the Western District, consisting of the named *counties* composing the balance of the State. The power to "establish such inferior courts as may be convenient to the administration of justice" was vested in the Legislature.

The pertinent sections of the Schedule read:

*Sec. 4*—"All laws now in force in this Territory, not inconsistent with this Constitution, shall continue and remain in full effect until repealed by the Legislature".

*Sec. 7*—"At the expiration of the time after which this Constitution is to go into operation, or immediately after official information shall have been received that Congress



has approved of the same, the President of the Convention shall issue writs of election to the proper officers in the different *counties*, enjoining them to cause an election to be held for Governor and members of the General Assembly, in each of their respective Districts".

*Sec. 8*—"Until the first enumeration shall be made, as directed in the sixth section of the second article of this Constitution, the County of Orleans shall be entitled to six Representatives, to be elected as follows: One by the First Senatorial District within said County, four by the Second District and one by the Third District.

The County of German Coast to two Representatives; the County of Acadia to two Representatives; the County of Iberville to two Representatives; the County of La-Fourche to two Representatives, to be elected as follows: one by the Parish of Assumption, and the other by the Parish of the Interior; the County of Rapides to two Representatives; the County of Natchitoches to one Representative; the County of Concordia to one Representative; the County of Ouachita to one Representative; the County of Opelousas to two Representatives; the County of Attakapas to three Representatives, to be elected as follows: two by the Parish of St. Martin and the third by the Parish of St. Mary; and the respective Senatorial Districts created by this Constitution, to one Senator each."

The Constitution did not ordain any plan of *county* or *parish* government; nor did it divide the State into counties or parishes, these matters being left in the situation in which they were. The word "parish" is not found in the constitution except in the instances which we have noted.<sup>101</sup>

By special message to the Congress of March 3, 1812, the President transmitted to it the Constitution of the State of Louisiana, with other papers submitted by the Convention.<sup>102</sup> By the act of Congress approved April 8, 1812, the Louisiana Constitution was accepted and the State of Louisiana admitted into the Union. The act was to take effect, however, as of date April 30, 1812, the date of the anniversary of the treaty of cession and purchase.<sup>103</sup>

<sup>101</sup> See "*The Constitutions*", by William Kernan Dart, in *Louisiana Digest*, Bobbs-Merrill Co., 1917, Vol. 1, pp. 44-57 (45-48); also *A Historical Review of the Constitutions of Louisiana*, a paper by Judge Robert H. Marr read at meeting La. Bar Ass'n., Rep't. La. Bar Ass'n. V. 14 (1912-1913), pp. 229-247 (229-233).

<sup>102</sup> *Messages & Papers*, op. cit., Vol. 1, p. 498.

<sup>103</sup> 2 Stat. at Large, p. 701.

By act approved April 14, 1812,<sup>104</sup> Congress tendered to the State of Louisiana, to be accepted by its General Assembly, that portion of the West Florida area which is now known as the "Florida Parishes" and which had theretofore been erected into the County of Feliciana and divided by the General Assembly of the Territory into the Parishes of Feliciana, East Baton Rouge, St. Helena, and St. Tammany. By this action the Parishes of Biloxi and Pascagoula passed out of our history.

The General Assembly of Louisiana, by resolution approved August 4, 1812, declared that it approved and consented to this enlargement of the State's limits and that the tendered territory "shall ever be and remain a part of the State of Louisiana."<sup>105</sup>

The effect of the approval by Congress of the Louisiana constitution was passed on by the Supreme Court of the United States in the interesting case of *Bernard Permoli, Plaintiff in Error, versus Municipality No. 1 of New Orleans, Defendant in Error*, (1844). The circumstances of the controversy were novel. The Municipality had passed an ordinance imposing a penalty "on any priest who should officiate at any funeral in any church other than the 'obituary chapel'." Father Permoli had conducted the usual funeral ceremonies prescribed by the rites of the Roman Catholic religion over the remains of one of his parishioners in the Roman Catholic church of St. Augustin. He was arrested, convicted, and fined for violation of the ordinance; and the City Court having affirmed the sentence, he sued out a writ of error to that court. His contention was that the ordinance was void in that it contravened the Constitution and laws of the United States which prohibited the enactment of any law interfering with the free exercise of any religion. He relied more especially upon the provision of the act of Congress authorizing the formation of a constitution, which required that it should contain the fundamental principles of civil and religious liberty; and upon the stipulation in the old Ordinance of 1787 that "no person demeaning himself in a peacable manner, shall ever be molested on account of his mode of worship, or religious sentiments . . ."

The reasoning of the Supreme Court in rejecting his contentions is too lengthy to be reviewed, but it is concisely indicated by the syllabus, reading:

<sup>104</sup> 2 Stat. at Large, p. 708.

<sup>105</sup> Acts 1812, pp. 1-7.

"Though by the act of February 20, 1811 (2 Stats. at Large, 641), certain restrictions were imposed on the convention which was to form the constitution of Louisiana, in respect to what that constitution should contain, yet when by the act of April 8, 1812, (2 Stats. at Large, 701), Louisiana was admitted into the Union, 'on an equal footing with the original states', Congress must be considered to have been satisfied those restrictions had been observed, in forming the constitution, and it is no longer a question under any law of the United States, whether an individual has been injured by a violation of a right intended to be secured by those restrictions."

"The act of March 2, 1805, (2 Stats. at Large, 322), granted to the inhabitants of the territory of Orleans, the rights secured to the people of the Northwestern Territory by the Ordinance of 1787, so far as the same had been conferred on the people of the Mississippi Territory; but the political right to religious liberty, provided for in that ordinance and in this act of Congress, ceased to depend thereon, when the State was admitted to the Union. If it existed, it was under the constitution of the State alone."<sup>106</sup>

## XI.

### THE STATE GOVERNMENT BEGINS TO FUNCTION

In accordance with the mandatory direction of section seven of the schedule of the Louisiana constitution, immediately upon notification of its approval by Congress and the President, Julian Poydras, as President of the convention, issued his writs directing the holding of an election on Monday, June 29, 1812, for Governor and members of the General Assembly of the new State. This first state election in Louisiana was a spirited contest between Governor Claiborne and the opposing faction, directed by his ancient and most brilliant political enemy, Edward Livingston. The opposition's candidate for Governor was Jacques Philippe Villere, a Creole.<sup>107</sup> The total vote cast in the state was 3,872. Claiborne's victory was overwhelming, as he received 2,757 votes to 947 for Villere and 168 for Destrehan.<sup>108</sup> But under section 2 of Article III of the constitution a majority of the popular vote did not elect a governor. The returns were to be reported to the President of the Senate,

<sup>106</sup> 3 Howard (U. S.), 589, 11th Law. Ed., p. 739.

<sup>107</sup> The second governor of the state.

<sup>108</sup> Letter Claiborne to Dawson, Aug. 10, 1812, in *Off. Letter Books, op. cit.*, Vol. 6, pp. 156-158.



"and on the second day of the General Assembly, the members of the two houses shall meet in the House of Representatives, and immediately after, the two candidates who shall have obtained the greatest number of votes shall be balloted for, and the one having a majority of votes shall be Governor; Provided, &c."

Thus it behooved a candidate for Governor to elect a majority of the members of the General Assembly.

The first session of the first General Assembly of the State of Louisiana convened at New Orleans on July 27, 1812. On the next day they proceeded to ballot on the two highest candidates for Governor, and the result was thirty-three votes for Claiborne and six for Villere.<sup>109</sup>

Governor Claiborne qualified on the 30th of July and on that day delivered his message to the General Assembly. Among other interesting things, he said:<sup>110</sup>

"... The constitution of the State points to several objects of high concern; which claim your most deliberate reflection. On a wise and just arrangement of the judicial department, depends the best interests of the community:—The great outlines are prescribed; but the details are left for Legislative provision.—The Judicial power is to be 'vested in a Supreme Court with appellate jurisdiction only, and in such inferior courts as the Legislature may think proper to establish.' Your first care should be to facilitate the approach to the tribunal of last resort, and render it accessible to the most indigent Citizen . . . In organizing the inferior courts, your own knowledge of the local situation of the several counties, and of the habits and sentiments of your constituents, will be your safest guides:—*We have seen the operation of the Parish Court system, and experience has made us sensible of its defects.—These should be remedied. But let us not proceed with an impetuous hand, or we may mistake innovation for reform, and instead of amendment, present only a change. . .*"

This first session of the General Assembly was of very short duration, and little was accomplished. The printed acts and resolutions passed cover only some 45 printed pages. Friction developed between the executive and the law-makers; a number of the latter, in both Senate and House, resigned, with the result

<sup>109</sup> *Ibid.*

<sup>110</sup> Official Letter Books, *op. cit.*, Vol. 6, pp. 140-147 (142, 143).

that special elections were called to fill these vacancies. Thereafter, a special session of the General Assembly was called by the Governor's proclamation<sup>111</sup> to convene on Monday, November 23, 1812. This second session of the First Legislature continued over into 1813.

As the constitutional apportionment of senators and representatives did not cover the Florida parishes area, by act of August 25, 1812, it was provided that: The *Parish* of Feliciana should constitute one district for the election of a Senator and two members of the House of Representatives; the *Parish* of East Baton Rouge should have a like representation in both Senate and House; the *Parishes* of St. Helena and St. Tammany should constitute one district for the election of a Senator, with each of said parishes electing a Representative.<sup>112</sup> It is to be noted that the old "County" of Feliciana is not mentioned in the act, notwithstanding that the apportionment provided for in the schedule of the constitution was a "county" apportionment. As this area was not a part of the state in the contemplation of the constitution as adopted, it was probably the view that its provisions for a "county" apportionment were not applicable to this after-acquired territory.

The act of September 1, 1812, defined the corporate limits of the City of New Orleans and made the Mayor, Recorder, and Board of Aldermen elective officers. The Aldermen were to be elected by Wards as set forth in the act. They were to be divided into first and second class men in point of service of one and two years, so that there should be an annual election and the Board a continuing body.<sup>113</sup>

The act of September 5, 1812, provided for the election of "a Representative from this State in the present Congress of the United States, and for the election of a Representative to the next succeeding Congress."<sup>114</sup> The election was ordered held in all the *Parishes*, under the supervision of the parish judge and two justices of the peace, on the 4th Monday in September, 1812, and on the two following days.

By act of September 5, 1812, "For the better defining the limits of the County of Natchitoches," that county received a

<sup>111</sup> Official Letter Books, *op. cit.*, Vol. 6, pp. 193, 194.

<sup>112</sup> Acts 1812, C. III, pp. 8-12.

<sup>113</sup> Acts 1812, C. VI, pp. 18-30.

<sup>114</sup> Acts 1812, C. IX, pp. 42-47.

definite boundary which covered all of the State of Louisiana lying north of the County of Rapides and west of the County of "Washita."<sup>115</sup>

At the second session of the first Legislature, by act approved December 14, 1812,<sup>116</sup> the boundary between the parishes of Pointe Coupee and West Baton Rouge was altered and re-defined; by the act of December 8, 1812, the limits of the Parish of St. Bernard were extended in the manner specified.<sup>117</sup>

We have heretofore noted the remarks of Governor Claiborne in his message to the first session of the first Legislature, relative to the necessity for a general reorganization of the judiciary system, to conform to the requirements of the constitution. The act of February 10, 1813,<sup>118</sup> was passed for that purpose. It erected the Supreme Court provided for in the constitution, created District Courts in lieu of the old Superior Court "going circuit," and also created parish and justices courts, making provision for their officers.

The Supreme Court was one of appeal only. It was to be composed of three justices, "learned in the law," any two to constitute a quorum. Stated sessions were required to be held in the eastern district of the State at New Orleans and in the western district "at the court house in the Parish of St. Landry in the County of Opelousas."

The statute then proceeded to divide the State into seven Judicial Districts, viz:

"The parishes of New Orleans, St. Bernard, Plaquemines, St. Charles and St. John Baptiste shall constitute and be called the First District;

The parishes of St. Jacques, Ascension, Assomption and LaFourche Interior shall constitute and be called the Second District;

The parishes of Feliciana, East Baton Rouge, St. Helena and St. Tammany shall constitute and be called the Third District;

The parishes of Iberville, West Baton Rouge and Pointe Coupee shall constitute and be called the Fourth District;

The parishes of St. Mary, St. Martin and St. Landry shall constitute and be called the Fifth District;

<sup>115</sup> Acts 1812, C. XII, pp. 48, 49.

<sup>116</sup> Acts 1812, 2nd. Sess., pp. 4, 5.

<sup>117</sup> Acts 1812, 2nd. Sess., pp. 8-9.

<sup>118</sup> Acts 1812-1813, pp. 18-36.



The parishes of Avoyelles, Rapides, Catahoula and Natchitoches shall constitute and be called the Sixth District; and

The parishes of Concordia, Warren and Ouachita shall constitute and be called the Seventh District."\*

This law further provided that there should be appointed for each district one judge, "learned in the law," who must reside therein. These district courts were given unlimited original jurisdiction in all civil cases and without appeal where the amount involved did not exceed \$300, exclusive of costs, but with right of appeal to the Supreme Court in cases exceeding that sum. They were also given jurisdiction of all criminal cases. The statute fixed the terms of court to be holden in the various parishes.

The law also created the office of parish judge for each parish, to have the same jurisdiction and powers as theretofore except as repealed or modified by the act. The jurisdiction of the parish court in civil causes was limited to personal actions where the matter in dispute did not exceed \$300, with right of appeal to the district court where the amount in dispute exceeded \$100.

The jurisdiction and powers of the justices of the peace remained the same as under existing laws, except that their jurisdiction was limited to the sum of \$50 exclusive of costs with right of appeal to the parish court for sums above \$20.

The statute further provided that a District Judge should appoint in each parish of his district a Clerk to perform the duties theretofore discharged by the Clerk of the Superior Court and also to "perform the functions of Clerk of the Parish Court which were hitherto fulfilled by the Parish Judge himself." The law further provided a Sheriff for each parish, his term being three years, "to execute all orders of the District Court, of the Supreme Court sitting in his parish, and all the duties which were incumbent on the sheriff of the Parish and Superior Courts, said sheriff to give the same security which was required of the late parish sheriffs."

This statute also provided for the appointment of an Attorney General for the State, to also act as prosecuting attorney in the First District; and for six District Attorneys, one for each of the other districts.

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\* Many subsequent acts, not noted, created additional districts, re-assigned the parishes as new parishes were created, etc.

In furtherance of public education the act of February 15, 1813,<sup>119</sup> authorized and directed the Regents of the University of Orleans to raise fifty thousand dollars per year for two years by conducting two "lotteries," the funds received from this uncertain gamble to be used for the support of the schools which the Regents had been directed to establish.

The act of February 25, 1813,<sup>120</sup> named five commissioners to select a site for a court house and jail for the Parish of Feliciana. They were directed to meet at the court house at St. Francisville and to select a location not over three miles from the center of the parish. They were also authorized to let a contract for the buildings; a majority of the commissioners, together with the judge of the parish court and the justices of the peace, were empowered to levy a tax not exceeding \$4,000 to cover cost of erection.

The act of March 15, 1813,<sup>121</sup> created the "Court of the Parish of New Orleans," to consist of one judge, "learned in the law," his jurisdiction to be concurrent with that of the First District Court in all civil cases originating in said parish.

He was to have the same criminal jurisdiction which had theretofore been exercised by the late City Court of New Orleans. This parish judge was vested with probate jurisdiction with right of appeal to the District Court in all cases in the same manner as appeals were formerly taken from the Probate to the late territorial Superior Court.

By act of March 20, 1813, the boundary line between the Parishes of St. Martin and St. Mary was re-defined; commissioners were appointed "to run and confirm the permanent boundary."<sup>122</sup>

The act of March 24, 1813, enlarged the *Parish of Catahoulou* and definitely outlined its new boundaries.<sup>123</sup>

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X.

THE PARISHES DIVIDED INTO WARDS

It seems that the first State law creating the office of sheriff and defining his duties was insufficient, and a new act was passed "to regulate the appointment of Sheriffs, and for other purposes," which was approved March 25, 1813.<sup>124</sup> This provided for the

<sup>119</sup> Acts 1812-1813, pp. 86, 87.

<sup>120</sup> Acts 1812-1813, pp. 100-102.

<sup>121</sup> Acts 1812-1813, pp. 114-118.

<sup>122</sup> Acts 1812-1813, pp. 132-134.

<sup>123</sup> Acts 1812-1813, pp. 133-140.

<sup>124</sup> Acts 1812-1813, pp. 142-152.

appointment, for the term of three years, of a sheriff for each parish in the State, "to attend each and every court that shall be holden in their respective parishes, as well in term time as in vacation; to execute all orders, writs and process, of the said court or any judge thereof . . ." "That said sheriff shall be *ex-officio* collector of taxes, and shall be bound to collect and account for all taxes that may be levied in their respective parishes, either for the *State* or *parish*,

provided, however, that the parish judge and the police juries shall have the right of appointing for the collection of the taxes of their respective parishes, special collectors when they shall think more convenient to have the collection of their *parish* tax conducted in that manner."

The statutory bond required of the different sheriffs was graduated; that for the Parish of Warren, for instance, was fixed at \$2,000 and that of the sheriff of Orleans Parish at \$60,000. In addition, each sheriff gave a bond as *ex officio* tax collector in a sum "double the amount of the State and parish taxes to be collected in his parish for the year next succeeding." The parish judge and justices of the peace of the parish were constituted a court to pass upon the sufficiency of the bonds tendered.

The act of March 25, 1813,<sup>125</sup> appointed commissioners "to fix and determine upon a permanent seat of justice for the Parish of St. Helena," said location to be within five miles of the center of the parish. They were empowered to receive any donation or gift of a site; in conjunction with the parish judge and two justices of the peace they were authorized to levy a tax not exceeding one thousand dollars, to be expended in the "erecting and completing of the public buildings in the said Parish."

In our study of the gradual evolution of the Parish Police Jury system we have seen that the selection of the twelve freeholders by the parish judge had given way to their popular election from the parish at large. But up to this time there had been no division of the parishes into smaller governmental units. The act approved March 25, 1813,<sup>126</sup> directed that each parish be divided into wards and provided for the election of police jury members from the respective wards. This comprehensive statute was designed to cover the whole subject of the creation, organiza-

<sup>125</sup> Acts 1812-1813, pp. 152-155.

<sup>126</sup> Acts 1812-1813, pp. 154-162.



tion, powers, and functioning of the police jury. Its provisions merit detailed analysis.

By its first section it was enacted that all parishes should be divided by the parish judge and justice of the peace into as many *wards* as the local situation prompted, "for the purpose of securing to each of the said wards an equal representation in the Police Jury." After the creation of the wards in the manner indicated, the statute directed that there should be held an annual election on the first Monday in June in each ward for the election of police jurors. It was to be called by the parish judge and held under the superintendence of a justice of the peace or two inspectors; the returns were to be made to the parish judge. A police juror must be a freeholder of his ward, and his term of office was two years; but at the first election first and second class jurors were provided for, so that the police jury should be a continuing body. This provision read:

"The members of the police jury returned on the first election to be held pursuant to this act, shall be divided by lot into two classes; those of the first class shall continue in office during two years, and those of the second class shall continue only during one year, so that the said jury shall henceforth be renewed every year by one-half."

The law made it mandatory for the police jury to hold a meeting on the first Monday of July of every year at the seat of justice of the parish. The parish judge was designated as its president and the justices of the peace of the parish were members *ex officio*. These justices were entitled to a vote, but the president voted only in case of a tie. A majority of the jurors, together with one-third of the justices of the peace, constituted a quorum,

"except in cases of any new expense to be ordained, or any new parochial tax to be levied, or of any former tax to be increased or diminished, in all which cases the meeting must consist of at least two-thirds of the members of the jury exclusive of the judge and justices of the peace."

A member of the jury was subjected by the statute to a fine of twenty dollars for non-attendance at a meeting without valid excuse; they were required to serve *without compensation*. The jury was required by the act to provide "a good and sufficient court house and jail" for the parish at such place as might be

deemed most convenient, "provided, however, that when the seat of justice is established by law, said jury shall have no power to remove the same."

The general powers conferred upon the police juries by this statute were quite comprehensive, including many which they now exercise. At the risk of becoming tedious we think they should be noted at length. They were empowered to make all such regulations as might be deemed expedient for:

1. The police of slaves and the pursuit and apprehension of fugitive negroes, not contrary to the state law;
2. The making and repairing of the roads, bridges, causeways, highways, dikes, and levees;
3. The clearing of the banks of the rivers and other navigable streams, for the free navigation by boats and other small craft, and for the tow-lines of the same;
4. The form and height of enclosures of fences;
5. Fixing the time during which cattle might be suffered to rove in the parish, and for determining what animals should not be permitted to run at large, and in what cases they might be lawfully killed;
6. Regulating the police of taverns and houses of public entertainment, and shops for retailing liquors, and for laying on billiard tables such imposts as might be judged necessary;
7. Fixing the quantum of fines of all such as violated their ordinances;
8. Levying taxes for necessary parish public works; for the assessment of same in equal rates against real and personal property, including slaves;
9. Establishing ferries, and for their annual letting to the highest bidder;
10. Appointment of a treasurer for the parish funds;
11. Appointment of constables and other officers to carry into execution the parish regulations, and to remove the same; and
12. For the opening of natural drains obstructed by owners of adjacent lands; and for the filling up of non-navigable water courses for the purpose of carrying the public highways over the same.

The corporation of the City of New Orleans was vested by the law with all these police jury powers within the corporate limits, to the exclusion of the Orleans Parish Police Jury.

It is not known why the Legislature designated the parish governmental subdivision as a "ward" instead of adopting the township, district, or other subdivision then in use in the other

states. Louisiana has had *townships* since the first United States land surveys were made, but they are purely legal units for the permanent location and description of land. Township lines have nothing to do with our parish governmental system. A Louisiana township has never exercised any political or governmental function except in one single instance, that being the requirement of a vote of the inhabitants of a township upon the advisability of making a sale of the school lands of the township which were acquired by Congressional grant for school purposes.

In the case of *Daigle vs. Opelousas &c. Ry.*, Mr. Justice Land, as the organ of the Supreme Court, in defining the meaning of the term "ward," as used in our constitution and statutes, said:

"... A justice of the peace ward is the smallest judicial district, and has no more connection with taxation than has any other judicial district. The term 'ward' as applied to the territorial jurisdiction of a court is a misnomer. Bouvier says that the term 'now indicates the subdivision of a city.' Black gives a like definition and adds, 'for purposes of police, sanitary regulations, prevention of fires, elections, etc.' We have such wards in our towns and cities for similar administrative purposes. But the same term is used in this state to indicate political subdivisions of a parish similar to the towns or townships in our sister states, possessing in a greater or less degree powers of local self-government."<sup>127</sup>

The dissenting opinion of Judge Provosty in this case somewhat clarifies the above:

"... but the police jury ward is no more provided with a government or 'authorities' of its own than the justice of the peace ward is. Both kinds of wards are governed by the same police jury, and are both alike purely and simply territorial subdivisions. A police juror is not an officer of the ward in which he has been elected, but of the entire parish. He has no more authority in the ward in which he has been elected than in any other ward, or than any one of his colleagues has."

An act of March 25, 1813, appointed a commission to establish the permanent seat of justice of St. Tammany Parish and to contract for the erection of the public buildings; it authorized an eight hundred dollar tax-levy for the same.<sup>128</sup>

<sup>127</sup> 124 La. Reports, p. 1047 (1909); 50 So. Reporter, pp. 846-849.

<sup>128</sup> Acts 1812-1813, pp. 174, 176.



An act approved March 26, 1813, was supplementary to that noted *ante* regulating the Supreme and inferior courts of the State.<sup>129</sup> It contains 23 sections, only one or two of which may be mentioned. The statute imposed on the parish judge, jointly with not less than two justices of the peace, the duty of certifying lists of electors to the sheriff, which he was required to utilize in making up the ballots for drawing grand and petit juries for the district and parish courts. There follows this peculiar provision:

"Provided, however, that no jury shall be summoned or called before any *parish* court of this state, except before the parish court of the parishes of Orleans, St. Tammany and St. Helena."

We are at a loss to understand why the parishes named should have had this special consideration. The law further provided that all criminal prosecutions before the district courts should be at the expense of the State and paid on the warrant of the district judge.

The act approved March 27, 1813, levied a direct lump-sum state tax of \$49,377 against the several *parishes*, according to a detailed graduation.<sup>130</sup> The law is quite lengthy and was intended to fully cover the matter of the annual levy and assessment of State taxes on lands and slaves. The tax on slaves was fixed at one dollar per head. The procedure was much the same as theretofore adopted. Police juries named the three appraisers (assessors) for their respective parishes. After the assessment lists were returned by them, the parish judge extended the taxes on the roll. In the Parish of Orleans the Police Jury was directed to appoint twelve assessors. This act levied the following occupation and personal property taxes:

- |  |         |
|--|---------|
| 1. On wholesale and commission merchants.....  | \$50.00 |
| 2. On retailers of goods, including wines and<br>spirited liquors, when sold in greater quantities<br>than one quart ..... | 15.00   |
| 3. Taverns, grog-shops and retailers of liquors in<br>less quantities than one quart .....                                 | 10.00   |
| 4. Brokers or auctioneers .....  | 50.00   |
| 5. Lawyers, proctors, and notaries .....   | 25.00   |
| 6. Physicians, doctors, surgeons, and apothecaries   | 25.00   |
| 7. Four-wheel carriages .....  | 10.00   |

<sup>129</sup> Acts 1812-1813, pp. 194-206.

<sup>130</sup> Acts 1812-1813, pp. 218-244.

8. Two-wheel carriages .....	5.00
9. "Two-wheel carriages fabricated in this State, known as 'Calaches,' when the wheels are bound with iron and have iron axle-tree" .....	3.00
10. Billiard tables .....	50.00

The law further levied a tax of one cent "on every head of horned cattle in excess of 25 head; and three cents on every horse, mare or mule owned by one person above ten head"; and also a corporate stock tax of 25c per \$100. Wagons, carts, or drays were exempted from taxation.

The act of January 21, 1814, after reciting that a number of parishes were without sheriffs, directed the parish judges to act as State tax collectors in such instances. As the offices, first of parish coroner, and then of district coroner, had been abolished, this act again created the office of parish coroner, to be filled by appointment of the Governor.<sup>131</sup>

The act of February 26, 1814,<sup>132</sup> repealed the act of February 25, 1813, relative to the establishment of the permanent seat of justice of the Parish of Feliciana, and provided:

"That the police jury of said parish shall not have power to fix on a seat of justice for the aforesaid parish until the sense of the people is known as to the expediency of dividing said parish."

By act of February 28, 1814, the Parish of Warren was abolished; the northern portion of its territory was annexed to the "Parish and County of Ouachita" and the remainder to the "Parish of Concordia."<sup>133</sup>

The act of March 3, 1814, clarified the general police jury act of 1813 relative to the opening of natural or artificial drains.<sup>134</sup>

The location of the "permanent seat of justice" of Feliciana Parish appears to have been a controversial matter. The act of January 31, 1815,<sup>135</sup> provided for the appointment of a surveyor "to determine the exact center of the parish"; and how he should go about this business is set forth in great detail, as well as the proceedings thereafter to be had in the location and erection of the public buildings.

<sup>131</sup> Acts 1814, pp. 3-8.

<sup>132</sup> Acts 1814, pp. 26, 27.

<sup>133</sup> Acts 1814, pp. 32-34.

<sup>134</sup> Acts 1814, pp. 46, 47.

<sup>135</sup> Acts 1815, pp. 50-56.

The subject-matter of an act of February 29, 1816,<sup>136</sup> would lead one to believe that the old "County" organization or system was entirely obsolete, though such was not the case. This act provided that the Parishes of Assumption and LaFourche Interior should jointly have power to demand of all persons holding any sum or sums "belonging to the late County of LaFourche" an accounting and payment.

Less than a week later, March 5, 1816, an act was approved fixing the representation in the Legislature on the old *county* basis. For brevity's sake, we omit this detailed apportionment.<sup>137</sup>

In 1816 William Darby published his comprehensive parish map of Louisiana and at the same time, as an accompaniment, his book entitled *A Geographical Description of the State of Louisiana*.<sup>138</sup> At that time Darby probably knew more about Louisiana than anyone else. In the preface of his book he states that he had been engaged for eleven years in collecting material for it and for the compilation of his map. Both merit the attention of the student. The title of the book is a misnomer, for the reason that it contains a vast amount of information about the Louisiana of that day which the term "geographical description" would not suggest. As being pertinent to our subject, we excerpt the following:

"The legal division of the State of Louisiana into parishes is laid down upon the map. The counties and districts are not delineated. So much confusion would have been superinduced by so many conflicting subdivisions, that it was judged more conducive to perspicuity to place upon the map only the parochial lines, and to give the verbal description in the same manner . . ."<sup>139</sup>

"The State of Louisiana is divided into twenty-five parishes, whose natural positions are: six north of 31° north latitude; three south of 31° N.L. and west of the Atchafalaya River; and sixteen east of the Atchafalaya. Their respective extent in square miles, and population in 1810, is exhibited by the following table . . ."<sup>140</sup>

<sup>136</sup> Acts 1816, pp. 18, 19.

<sup>137</sup> Acts 1816, pp. 22-24.

<sup>138</sup> Philadelphia, 1816. The map, very large, is extremely rare. Copy in map files Howard Memorial Library, New Orleans. The writer has photostat furnished by map department Library of Congress.

<sup>139</sup> Darby, pp. 179, 180.

<sup>140</sup> *Ibid.*, p. 180.



After giving a detailed description of each parish, the author says:

"Respecting the boundaries of the parishes marked on the map, many of them are drawn by analogy; not being defined by law . . ." <sup>141</sup>

An act of March 6, 1816, conferred additional powers on the police juries: (1) to pass such regulations as deemed expedient for the police and government of the parish jails; (2) to fix the manner in which runaway negroes and other slaves confined therein should be assigned to the public works as directed by Sec. 28 of the Black Code; and (3) to provide a schedule of fees to be charged owners of incarcerated slaves, etc. <sup>142</sup>

A new general election law for the state was adopted on March 16, 1816. <sup>143</sup>

"That the parishes which are entitled by law to have one or more representatives to the Legislature of this state shall hold their elections separately and the said elections shall be presided (*sic*) by the judge of each of the said parishes respectively and by two justices of the peace chosen by the said judge as commissioners of election . . ."

The statute further provided that in a Senatorial election all of the parish judges and commissioners of election in the senatorial district should meet and canvass the returns for the district and certify the result. If a parish had been divided into "election districts," a voter had the option of voting in any district of the parish, regardless of his place of residence therein.

The general police jury act of 1813 was vitally amended by the act of March 20, 1816. <sup>144</sup> It will be recalled that by the former act there was no limitation on the discretion of the judge and justices of the peace as to the number of wards into which a parish might be partitioned. This amendatory law limited the wards to not less than five nor more than twelve. It further directed that each ward should have one police juror, whose term of office should be two years. Two annual meetings per year, beginning on the first Mondays of September and May, each being limited to a maximum of four days, were required. The time limitation had in view the conservation of the parish purse. There-

<sup>141</sup>Ibid., p. 222.

<sup>142</sup>Acts 1816, pp. 24-25.

<sup>143</sup>Acts 1816, pp. 86-90.

<sup>144</sup>Acts 1816, pp. 167-164.

tofore members of the jury had been required to serve without pay, while the act being reviewed stipulated that the members of the jury, its clerk, and the parish judge should receive a fixed compensation of two dollars per day. All ordinances of the jury were required by this act to be in writing, to be signed by the parish judge, as President, and attested by the Clerk; and promulgated

"by the most effectual means, by setting up fair copies, in the French and English languages where necessary, at some place or places in the ward, for the information of all the inhabitants of the parish."

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## XI.

### SOME EARLY LEVEE AND ROAD LAWS

The act approved March 18, 1816, is the first comprehensive levee and road law to be passed.<sup>145</sup> It is very lengthy, as it contains forty-nine sections. Its title reads: "Concerning the levees and roads on the banks of the Mississippi, and for other purposes"; but "the Counties of Concordia and LaFourche" are specifically excepted from its provisions. Quoting Section one:

"That throughout all the portion of the state watered by the Mississippi and the bayous running from the same which are settled, (except those in the counties of Concordia and LaFourche) where levees are necessary to confine the waters of that river, and to shelter the inhabitants against inundations, *the said levees shall be made by the riparian proprietors*, in the proportions and at the time hereinafter prescribed."

Succeeding sections prescribe in minute detail the size and manner of construction of the levees, and how a planter may run irrigation canals through the same, "either to inundate his rice or to water his crops."

The law also provides:

"That every owner of lands situated on the banks of the river throughout this state, shall be held to give to the public, and to keep constantly in good repair, a highway at least twenty feet wide on the whole front of his property."

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<sup>145</sup> Acts 1816, pp. 106-130.

The manner of laying out, constructing and ditching the road is minutely set forth.

The work of building and repairing levees, roads, and bridges by riparian proprietors was required to be started every year on the 15th of August and to be completed on or before the 15th of December. Supervision of this work was assigned to Parish Inspectors by the police jury. The term of an Inspector was one year; he was required to take an oath and was penalized for failure to serve unless physically unfit or over fifty years of age. The Inspector ordered the doing of the work by the riparian proprietors in his district and had the power to call the slaves from any part of the parish and cause the work of any defaulting proprietor to be done and at his expense. The Inspector was required to make *proces verbals* and reports as a basis for actions for reimbursement against defaulting owners. Such actions were made cognizable by the Parish Court, and the statute bristled with "pains and penalties."

While it is anticipating, it may be noted here that another general levee act, containing 56 sections, was approved February 7, 1829.<sup>146</sup> It was not an amendment of the old act, but was apparently intended to supersede the old law. In the main, the provisions are much the same, and no good purpose would be served by attempting an abstract of it. The section concerning roads recites that it "shall not apply to the Parishes of East and West Feliciana and that part of the Parish of East Baton Rouge lying above the town of Baton Rouge." Section 52 reads:

"That the provisions of this act shall not apply to the parishes of Concordia and Ouachita, except such of them as may be adopted by the police jury or juries of said parishes, which thereafter shall have full force and effect; and that the police juries of said parishes shall have plenary and unlimited powers to make such enactments with regard to roads and levees within their respective limits as may be deemed necessary, including the power of assessment and collection of any taxes which may be deemed necessary," etc.\*

The act of February 7, 1817, defined anew and at length the boundaries between "the Counties of Opelousas and Attakapas."<sup>147</sup>

<sup>146</sup> Act No. 31, 1829, pp. 76-104.

\*See *Slattery vs. Police Jury Concordia Parish*, 2d. La. Ann. p. 444, reviewing reasons for excepting Concordia; also *History of Concordia Parish*, op. cit., La. Hist. Qy., Vol. 15, No. 4, Oct. 1932, pp. 623, 624.

<sup>147</sup> Acts 1817, pp. 66-68.



The first parish-seat election in Louisiana was ordered by an act of February 18, 1817,<sup>148</sup> "to provide for the permanent establishment of the seat of justice in the Parish of St. Tammany." It was made the duty of the parish judge to call an election throughout the parish for the first Monday in May, 1817, at which the question of location must be submitted to the qualified electorate. Upon the result of the vote being ascertained, the police jury of the parish was "authorized and required to provide for the erection of a court house and jail at the aforesaid place, at the expense of said parish."

The act approved February 22, 1817, further amended the general police jury legislation.<sup>149</sup> It enacted that the justices of the peace should continue as *ex officio* members, "but no certain number of them shall be necessary to do business in any case whatever." It may have been observed also that no previous police jury legislation had, in terms, given that body the power to sue and be sued and stand in judgment. This act recited:

"That whenever any works to the levees, high roads, etc. of any parish of this state shall have been made at the parish's expense, it shall be lawful for the police jury of the said parish to sue any person or persons for whose account the said works or repairs were made, before any court of competent jurisdiction, and to obtain the reimbursement of said amount, by privilege on the land subject to the said works; and the said police jury shall be authorized to sue under their respective name and style in this manner: 'The Police Jury of the Parish of —,' adding the name of the parish to which they belong respectively; and shall appoint an attorney at law to represent them in said suit."

While the express power to sue and be sued had not theretofore been delegated to the jury, the Supreme Court through Mr. Justice Mathews, in the case of Police Jury versus John McDonogh,<sup>150</sup> held that this power was necessarily implied and incidental to the express powers granted by the acts of 1807 and 1813, and that those acts together with the act of 1817 "are to be taken and considered as one act so far as the provisions of the first are not inconsistent with those of the latter."

<sup>148</sup> Acts 1817, pp. 110-11.

<sup>149</sup> Acts 1817, pp. 154-157.

<sup>150</sup> 7th. Martin's Reports (O.S.) p. 8, (1819).

The first decision of the Supreme Court upon the subject of the power of the judiciary to interfere with and enforce the legislative powers or functions delegated to police juries was rendered in 1819, in the case of Claiborne's Heirs vs. Police Jury of Orleans.<sup>131</sup> The decision is interesting and we think the opinion of Mr. Justice Derbigny warrants inclusion here at some length. The State Legislature, in grateful recognition of the long and arduous services of Governor Claiborne, passed an act making an appropriation for the "relief" of his "widow and heirs," the funds to be raised by parish taxation, to be levied by the police juries. The police jury of New Orleans having failed to act, the interested beneficiaries proceeded by rule against it with the view to a compulsory levy. The police jury defended on the grounds, first, that the act was unconstitutional and, second, that the courts had no jurisdiction to compel a legislative body to fulfill its legislative functions. A decision of the constitutional question was pretermitted for the reason that the other ground of defence was sustained. Judge Derbigny said:

"The first fundamental principle of our constitution is that the powers of the government are divided into three departments, ever to be kept distinct, to-wit, the legislative, the executive, and the judiciary.

"To the legislative branch of the government belongs the right of laying taxes for purposes of general utility. Supposing the present tax to be one which the legislature had a right to create, the law by which they have ordered the police jury to impose it is a delegation of their powers. To obey that law the jury must legislate—they must themselves enact a law providing what sort of tax it shall be, on what property it shall be laid, in what manner it shall be levied, how it shall be enforced. Is it the province of the judiciary to direct how they shall do all this? And, if they can give such directions, how are they to compel a compliance? Suppose the jury enact a law, without providing for its execution, will courts again interfere? As well might they legislate themselves. But the better to test the impropriety of such interference, how and against whom is this supposed authority to be exercised? The police jury, though authorized by law to represent the parish in courts of justice, is not a corporation possessed of property; therefore no distringas can issue to compel a performance. One of their adverse counsel found no difficulty in the matter—he thought it very simple to send them all to

<sup>131</sup>7th. Martin (O.S.) p. 4. (1819).

jail. This mode is no doubt expeditious; but the question is, whether it is legal and proper.

"In a deliberative body, the majority rules the minority. Suppose in this assemblage of twelve citizens five were willing to lay the tax and seven were dissenting; are they all to be imprisoned as refractory, or is the court to discriminate between them? The last seems to be the only step consonant with justice; but how is the court to know who is disobedient, and who is not? In this particular case, there was something said about unanimity; but the knowledge of this fact is accidental. The question is, whether the court can compel a disclosure of the yeas and nays, and then pick out the refractory members to send them to jail; or whether, without taking any such trouble, it can at once throw them all into prison, until a majority can be compelled to legislate. We think that it can do neither."

The troublesome boundary of the Parish of St. Bernard was again dealt with by the act of February 22, 1817;<sup>152</sup> the act approved February 4, 1818, defined and established "the permanent boundary of the Parish of Avoyelles" and further described the territory to be included in the Parish of "Catahouley."<sup>153</sup>

The old parish seat controversy in St. Tammany bobbed up again in the act of March 16, 1818, wherein it was declared that "the permanent seat of justice for the Parish of St. Tammany be and the same is hereby permanently established at or near the town of Covington." By the same act commissioners were named to fix and establish a permanent seat of justice for the Parish of Avoyelles.<sup>154</sup>

The act of March 18, 1818, again reapportioned the representatives in the Legislature among the several counties of the State rather than among the parishes.<sup>155</sup>

The office of Parish Surveyor was created by an act of March 18, 1818.<sup>156</sup> The law defined the qualifications and duties of this officer and fixed a schedule of fees. The surveyor for the Parish of Orleans was made *ex officio* Surveyor General of the State, and his duties and functions as such were prescribed.

An act of March 12, 1818,<sup>157</sup> created the "Criminal Court for the City of New Orleans," with exclusive cognizance of "all

<sup>152</sup>Acts 1817, pp. 166, 167.

<sup>153</sup>Acts 1818, pp. 10, 11.

<sup>154</sup>Acts 1818, pp. 90-93.

<sup>155</sup>Acts, 1818, pp. 154-157.

<sup>156</sup>Acts 1818, pp. 158-164.

<sup>157</sup>Acts 1818, pp. 46-52.



crimes, misdemeanors, and offenses which shall be committed by any free person or persons within the limits of the said City." A *president* and two assistant judges constituted this court, any two making a quorum. In one particular this statute harked back to the old Spanish régime, in that it provided that in the absence or inability of a member of the court to sit, "the Governor shall appoint a suitable jurisconsult as a *judicial assessor*, to act *pro tempore*." The Attorney General was designated as the prosecuting officer for this court. The prosecution for capital crimes and other felonies was upon indictment only, and for the lesser offenses upon information. This court superseded the criminal jurisdiction theretofore vested in the First District Court; the act was silent upon the subject of appeals.

The first comprehensive legislation upon the important subject of public roads was the act approved March 12, 1818.<sup>158</sup> The first section provided:

"That all roads in this state that have been opened, laid out or appointed by virtue of any act of the legislature heretofore passed, or by virtue of an order of any of the police juries in the respective parishes, are hereby declared to be public roads; as are also all roads made on the front of their respective tracts of land by individuals, when the said lands have their front on any of the rivers or bayous within the state; provided it may be lawful for any individual through whose land the police jury shall have caused a road to be laid out, which should thereafter be considered as public as above stated, to claim a just compensation therefor, whenever he shall not have received the same."

Abstracting the more important provisions: All roads were required to be located and laid out by a jury of not less than six sworn freeholders of the parish. The freeholders were appointed by the police jury. They assessed the damage occasioned any land-owner by reason of the location and construction of the road through his property;

"provided, however, that nothing in this section shall be construed to give a right to any individual to claim damages for the laying out of a road along the front of his land, according to the former customs existing in this state . . ."

<sup>158</sup>Acts 1818, pp. 54-62.

The statute further granted a right of appeal to the District Court from the findings of the jury of freeholders, either as to the location of the road or as to the quantum of damages awarded the proprietor. The administration of the law was delegated to the police jury. It was empowered to divide the parish into road districts and to appoint an overseer for each district. The duties of overseers were outlined, and failure to serve was made punishable by a fine of one hundred dollars. The district Judges of the state were enjoined:

"at each session of their several courts to charge the grand jury to inquire into the state of the roads of their respective parishes, and lay before the said juries the list of the overseers, in order that said juries may know which of said overseers may be liable to prosecution for a failure to perform the duties imposed upon them by this act."

Under the statute all male residents between the ages of 15 and 45 years were subject to road duty for not exceeding twelve days per year (unless exempted by the law). This provision also included slaves. In default of any free person or slave serving as required, such person, or the master of the slave, was taxed one dollar per day for the use of the parish road fund. The law also made it a misdemeanor to obstruct a public road. It empowered police juries to grant toll-bridge and causeway franchises to private individuals under certain specified conditions. The singular provision of this law read:

"That the provisions of this act shall not extend to any of the parishes of this state lying on the bank of the Mississippi, except the parishes of East Baton Rouge, Feliciana and Concordia."

## XII.

### PUBLIC EDUCATION, COUNTY-PARISH APPORTIONMENT

The act approved March 6, 1819,<sup>159</sup> brings to our attention very forcibly the niggardly support given the early public schools of this State. It made an annual appropriation of six hundred dollars "for the support of a school or schools in each parish of the state." This sum was directed to be paid over to the respec-

<sup>159</sup>Acts 1819, pp. 152-155.

tive police juries, "provided, that no part of said appropriation shall be paid, except after the school or schools shall be established for three months." Police Juries were required to make an annual report to the Legislature of "their administration as managers of the parish school or schools." In the event that any such report was unsatisfactory, "the appropriation left at the disposal of such police jury shall be forthwith withdrawn." As to the University of Orleans, one thousand dollars per annum was appropriated, in addition to the three thousand dollars per annum appropriation under existing laws. The seventh section of the act excepted the Parish of Ascension from its provisions and continued: "That the school established at Donaldsonville shall be continued as heretofore; and that an annual appropriation of *six hundred thousand dollars* is hereby made for supporting said school." Evidently the word "thousand" was an error of the enrolling room or of the public printer.

By the act of March 6, 1819,<sup>180</sup> the parish of St. Tammany was divided into two parishes, the northern portion to be known as the Parish of Washington. An election to fix the location of the parish seat of Washington was ordered.

Police Juries were given the exclusive power to organize and establish patrols for the police of slaves and to make all necessary regulations on that subject, by an act of January 9, 1821.<sup>181</sup> The incorporated cities and towns were excepted; but the police jury patrols were given "right of entry on all plantations to visit the negro huts."

The Criminal Court of the City of New Orleans, heretofore noted, was abolished by the act of January 16, 1821;<sup>182</sup> in its stead there was created the Criminal Court of the First District, to be presided over by one judge instead of three as formerly.

The act of February 10, 1821, designated the Town of Franklin as "the permanent seat of justice of Washington Parish."<sup>183</sup>

Police Juries were empowered by the act of March 2, 1822, to regulate all taverns and to "levy such taxes on inn-keepers, tavern-keepers, and retailers of spirituous liquors, as they may deem proper, except in incorporated towns . . . the said taxes, however, not to exceed the amount of such taxes imposed by the

<sup>180</sup>Acts 1819, pp. 80-83.

<sup>181</sup>Acts 1821, pp. 10, 11.

<sup>182</sup>Acts 1821, pp. 18-31.

<sup>183</sup>Acts 1821, pp. 38, 39.



state." The City and Parish of New Orleans were excepted, and the Mayor and City Council of New Orleans and the Police Jury of Orleans Parish were granted the same powers within their respective jurisdictions, but without the limitation noted.<sup>184</sup>

The act of March 21, 1822, divided the State into three Congressional Districts. The division was made by counties and not by parishes,<sup>185</sup> and on March 22, 1822, another reapportionment of the State for representatives in the Legislature was made; this, likewise, was by counties.<sup>186</sup>

By the act of March 22, 1822, the new Parish of *Terre Bonne* was created from a portion of the Parish of *LaFourche Interior*. The boundaries of the new parish were delineated and provision made for the appointment of its officers.<sup>187</sup>

By act of March 23, 1822, the *Parish of Orleans* was incorporated, the statute reciting: "That the free, white, inhabitants of the Parish of St. Louis, of Orleans, be and are hereby formed and constituted a body civil and politic, styled 'The Inhabitants of the Parish of Orleans'." The corporate powers were set forth at length, to be administered by the Police Jury of Orleans Parish under existing laws, "but no justice of the peace of said parish shall, by virtue of his said office, be entitled to a seat in the said jury, any law to the contrary notwithstanding." In certain matters relating to the alienation of the corporate property and concerning the parish fisc the Board of Aldermen of the City of New Orleans was entitled to sit in and vote *ex officio*.<sup>188</sup>

By act approved January 17, 1823, the new Parish of *Lafayette* was "established in the County of *Attakapas*" by carving the Parish of *St. Martin*, theretofore established in said county, into two parishes. A commission was appointed to locate the seat of justice of the new parish; the appointment of its officers was provided for; the police jury was directed to levy a tax and to cause the erection of the necessary public buildings, and the transfer of public records from *St. Martin* to *Lafayette* was directed.<sup>189</sup>

The act of February 17, 1824, abolished the Parish of *Feliciana* and in its stead created the Parishes of *East and West Feliciana*, the boundary between the two being *Thompson's Creek*.

<sup>184</sup>Acts 1822, pp. 28-30.

<sup>185</sup>Acts 1822, pp. 58, 59.

<sup>186</sup>Acts 1822, pp. 66-69.

<sup>187</sup>Acts 1822, pp. 74-77.

<sup>188</sup>Acts 1822, pp. 88-91.

<sup>189</sup>Acts 1823, pp. 6-10.

"Each parish shall form a part of the County of Feliciana, and a part of the Third Judicial District." Temporarily, St. Francisville and Jackson were designated as the respective parish seats, but an election was ordered held for permanent locations. The act contains much other matter of historical interest to that particular section.<sup>170</sup>

A supplementary act concerning the details necessary to the division of the Parishes of St. Martin and Lafayette was approved February 25, 1824.<sup>171</sup> On March 7, 1824, an act was passed for the determination of the boundaries between the Parishes of Assumption and LaFourche Interior.<sup>172</sup> The act of March 27, 1824, concerned the two Feliciana parishes. Among other things, it provided:

"That all the lands and buildings belonging to the late Parish of Feliciana, in the town of Jackson or its vicinity, shall be held as the joint property of both parishes."<sup>173</sup>

A radical change in the composition and personnel of the police juries of the State was made by the act of April 5, 1824, as it declared that justices of the peace should no longer be *ex officio* members.<sup>174</sup>

An act of April 8, 1824, named a commission to establish the boundary between the parishes of Iberville and Ascension. The parish surveyor of Ascension was authorized to make a survey of the boundary and to deposit a *proces verbal* thereof with the parish judge of each of said parishes, the same to constitute and evidence the permanent boundary.<sup>175</sup>

It has been heretofore noted that the appointment of "County" officers for the collection of the Territorial and State taxes had been dispensed with and this duty entrusted to the parish sheriffs. Surprisingly, we find an instance in which, for a limited period and in a limited area, there was a return of this function to a "county" official. The act of December 16, 1824,<sup>176</sup> recited that it had been hitherto impossible to procure a fit person to accept the office of sheriff of the Parish of St. Charles, by reason of the small profit arising from that office. It was enacted that

<sup>170</sup>Acts 1824, pp. 24, 25.

<sup>171</sup>Acts 1824, pp. 40-43.

<sup>172</sup>Acts 1824, pp. 68-71.

<sup>173</sup>Acts 1824, pp. 82-92.

<sup>174</sup>Acts 1824, pp. 134-135.

<sup>175</sup>Acts 1824, pp. 140-141.

<sup>176</sup>Acts 1824-1825 (2nd. Sess. of 1824), pp. 12-15.

henceforth "the sheriff of the Parish of St. John the Baptist shall be *ex officio* sheriff of the *County of German Coast*, and that in future only one sheriff shall be appointed for said County."

The act of February 2, 1825, invested police juries with additional powers: (1) to adopt regulations to prevent and punish trespasses committed by hunters on enclosed lands, and (2) to have broader powers regarding the marking, sale, or destruction of cattle and other domestic animals found running at large.<sup>177</sup>

An act of February 2, 1825, regulating the election of Presidential and Vice Presidential electors, divided the State into five electoral districts and provided the manner of conducting the election. The division was by parishes instead of by counties.<sup>178</sup>

The act of February 4, 1825, ordered another election in the Parish of East Feliciana to settle the old parish seat controversy.<sup>179</sup> By another act of the same date the limits of the Parish of Pointe Coupee were defined, this latter law also affecting the Parish of West Baton Rouge.<sup>180</sup>

An act of February 11, 1825, entitled "An act to divide the Parish of Orleans," created the new Parish of Jefferson. Its boundaries are not defined other than "That the Third Senatorial District shall form a parish under the name of the Parish of Jefferson." Additional sections provided for the appointment of its officers and the setting up of the usual parish government.<sup>181</sup>

The boundary between St. Tammany and Washington Parishes was made more definite by the act of February 22, 1826;<sup>182</sup> and the act of April 7, 1826, provided for the readjustment of the boundaries between the Parishes of Iberville, West Baton Rouge and Pointe Coupee, the expense of surveys, etc., to be borne by the three parishes "in proportion to their State taxes."<sup>183</sup>

A reapportionment of representatives in the Legislature was made by the act of April 7, 1826, as follows:<sup>184</sup>

"The *County of New Orleans* shall elect ten representatives as follows:

The Parish of Plaquemines .....	one
The Parish of St. Bernard .....	one
The Parish and City of New Orleans .....	seven
The Parish of Jefferson .....	one

<sup>177</sup>Acts 1825, pp. 62-64.

<sup>178</sup>Acts 1825, pp. 64-70.

<sup>179</sup>Acts 1825, pp. 78-82.

<sup>180</sup>Acts 1825, pp. 82-86.

<sup>181</sup>Acts 1825, pp. 108-112.

<sup>182</sup>Acts 1826, pp. 38-41.

<sup>183</sup>Acts 1826, pp. 186-189.

<sup>184</sup>Acts 1826, pp. 188-193.



*The County of German Coast* shall elect two representatives as follows:

The Parish of St. Charles ..... one  
The Parish of St. John the Baptist ..... one

*The County of Acadia* shall elect three representatives as follows:

The Parish of St. James ..... two  
The Parish of Ascension ..... one

*The County of LaFourche* shall elect six representatives as follows:

The Parish of Assumption ..... two  
The Parish of LaFourche Interior ..... three  
The Parish of Terrebonne ..... one

*The County of Iberville* shall elect two representatives as follows:

The Parish of Iberville ..... one  
The Parish of West Baton Rouge ..... one

*The County of Pointe Coupee* shall elect ..... one

*The County of Concordia* shall elect ..... one

*The County of Natchitoches* shall elect ..... three

*The County of Rapides* shall elect four as follows:

The Parish of Rapides ..... two  
The Parish of Catahoula ..... one  
The Parish of Avoyelles ..... one

*The County of Opelousas* shall elect ..... three

*The County of Attakapas* shall elect four as follows:

The Parish of Lafayette ..... two  
The Parish of St. Martin ..... one  
The Parish of St. Mary ..... one

*The County of Feliciana* shall elect ten as follows:

The Parish of East Feliciana ..... two  
The Parish of West Feliciana ..... two  
The Parish of East Baton Rouge ..... two  
The Parish of Washington ..... one  
The Parish of St. Helena ..... two  
The Parish of St. Tammany ..... one

*The County and Parish of Ouachita* shall elect ..... one"

An act of March 15, 1827,<sup>185</sup> defined the eastern boundary line of the Parish of Natchitoches; an act of March 22, 1827, concerned the boundaries of the parishes of Orleans, Jefferson, and LaFourche, and assigned Grand Isle to the Parish of Jefferson

<sup>185</sup> Acts 1827, pp. 90-91.

until the boundaries between the three parishes "shall have been particularly defined by law."<sup>186</sup>

An act of April 7, 1826, for the determination of the southern and western boundaries of the Parish of West Baton Rouge, was repealed by the act of March 24, 1827,<sup>187</sup> which further recited "that for the present the settlements on Bayou Grossetete shall be included in the Parish of Iberville."

The Legislature passed a general free school law of March 4, 1827, the first section of which reads:<sup>188</sup>

"That an annual appropriation be made to each parish in the state, except Orleans, for supporting a school or schools therein, of two dollars and five-eighths of a dollar, and no more, for every voter it contains, according to the last census, and as often as a new census shall be taken, the same sum for every voter it may contain: Provided, however, that none of the parishes herein contemplated shall, for the support of its parish schools, receive a greater yearly sum than thirteen hundred and fifty dollars, nor a less annual sum than eight hundred dollars."

The statute vested parish school management in the police jury through the appointment by that body of five parish school administrators. Three members constituted a quorum of this board. They elected their Chairman and also a non-member as Treasurer of the school funds, who was required to give bond. The law also required the appointment of three school trustees in each ward, from heads of families, and these trustees were empowered to employ and fix the salaries of the teachers in their respective wards, subject to the approval of the Parish Board of Administrators. The Treasurer was prohibited from honoring any teacher's salary warrant until said teacher shall

"deliver to said treasurer as a voucher, a certificate signed either by a majority of said trustees or administrators, that he has taught under their direction not less than six months; that he has, while in their employment, conducted himself in a moral and exemplary manner; and that he has not refused to receive into the school any indigent orphan child or the child of indigent parents sent to him by the trustees or administrators, at a time when he had

<sup>186</sup>Acts 1827, p. 156.

<sup>187</sup>Acts 1827, pp. 178-181.

<sup>188</sup>Acts of 1827, pp. 30-39.

under his care less than five such children, or less than such other higher number as he may have bound himself to receive as the case may be."

This statute further required trustees to make semi-annual reports in duplicate, one copy to be posted at the court house door and the other to be filed with the parish judge; and the school administrators were required to send annually a copy of these reports to the Legislature. No appropriation was made to the New Orleans schools by this act, but the "Regents of the primary and central schools of New Orleans" were authorized "to form a lottery, to procure a sum of forty thousand dollars, to enable them to buy or erect the buildings necessary for the central and primary schools of the City of New Orleans."

By the act of January 28, 1828, the Sheriff of the County of German Coast was allowed \$160 per annum "for services rendered in criminal prosecutions and other services rendered *ex officio* in his aforesaid capacity." We note this for the reason that the County of German Coast has the distinction of having officers longer than any other county in the state.<sup>189</sup>

The act of March 13, 1828, created the new Parish of Claiborne, which was carved out of the immense County or Parish of Natchitoches.<sup>190</sup>

An act of March 18, 1828, concerned the Iberville-West Baton Rouge boundary, and particularly affected the Bayou Grossetete and Bayou Maringouin settlements;<sup>191</sup> an act of February 3, 1829, pertained to the West Feliciana parish seat controversy;<sup>192</sup> and an act of February 6, 1829, established the seat of justice of St. Tammany Parish at Covington, appointed commissioners to select a site for the public buildings, and repealed a former statute on the same subject.<sup>193</sup>

The boundary line between the parishes of Catahoula and Ouachita was defined by an act of March 4, 1830.<sup>194</sup> The limits of several southeast Louisiana parishes were apparently affected by an act of March 15, 1830, which read:

"That the *Cheniere Caminada* which was comprised within the limits of the Parish of Orleans before the adoption of the act entitled 'An act to determine the boun-

<sup>189</sup>Acts 1828, No. 7, pp. 16, 17.

<sup>190</sup>Acts 1828, No. 42, pp. 70-77.

<sup>191</sup>Acts 1828, No. 53, pp. 92, 93.

<sup>192</sup>Acts 1829, No. 27, pp. 52-57.

<sup>193</sup>Acts 1829, No. 52, pp. 162-165.

<sup>194</sup>Acts 1830, pp. 36, 37.



daries of the Parishes of Assumption and LaFourche Interior and the eastern boundary of the last-mentioned parish,' be *annexed to the Parish of Jefferson* from the passage of this act."<sup>195</sup>

The overworked old parish judge temporarily lost his job as *ex officio* President of the police jury by the act of March 16, 1830. This law directed that henceforth the president of the jury should be elected annually from its membership. The statutory meeting dates were abolished, and the jury was given the power to fix its semi-annual meeting dates and to hold special meetings at will.<sup>196</sup>

An act of March 7, 1832, again defined the boundaries of the Parishes of East Feliciana and East Baton Rouge,<sup>197</sup> ordered a survey, and appointed commissioners to locate and mark the same. By the act of March 14, 1832, the new Parish of Carroll was carved out of northern Concordia and eastern Ouachita;<sup>198</sup> the act of March 30, 1832, amended a former act of February 10, 1832, creating the Parish of Livingston, by supplementing its directory provisions.<sup>199</sup> Livingston was formerly a part of St. Helena.

The act of February 15, 1833,<sup>200</sup> directed the police juries of the Parishes of St. Martin and St. Mary to appoint two commissioners each to establish the division line between said parishes, conformably to an act for the division of the County of Attakapas, approved March 20, 1813. The law further provided that in the event the commissioners should not agree, the district judge, on the application of the police jury of either parish, should appoint an umpire. Apparently, this is the first instance in which such a method was used.

In following up the thread of legislation concerning public education we find the act of April 1, 1833, which designated the Secretary of State as the Superintendent of Public Education and regulated his duties in that capacity.<sup>201</sup> All reports theretofore required to be made by the local school authorities were directed to be made to him. The following provision was made as to the distribution of the State school fund:

<sup>195</sup> Acts 1830, p. 64.

<sup>196</sup> Acts 1830, pp. 130-131.

<sup>197</sup> Acts 1832, pp. 78-81.

<sup>198</sup> Acts 1832, pp. 100-106.

<sup>199</sup> Acts 1832, pp. 130-132; Acts of 1832, pp. 20-29.

<sup>200</sup> Acts 1833, p. 28.

<sup>201</sup> Acts 1833, pp. 141-144.

"That the annual appropriation to be made to each parish in the state for the support of the parish schools, shall be, where not more than ten are instructed, at the rate of four dollars; and for any number not less than ten nor more than twenty, three dollars, and for any number above twenty, two dollars and fifty cents per month, for each scholar actually instructed; which sums shall include tuition, books and stationery, which shall be furnished by the teachers under the direction of the trustees or administrators of the parish schools, or such other person as may be appointed by the superintendent; provided, that the whole sum paid to any parish shall not exceed the amount now allowed to it by law for that purpose; and provided, also, that the provisions of this section shall not apply to the parish and city of New Orleans."

We thus see a change in policy from an apportionment based on the number of voters in a parish to a more equitable distribution based on school attendance, which has finally come to be based upon the number of educables.

A roads and levees act of March 29, 1833, made some radical changes from the statute of 1829 on those subjects.<sup>202</sup> We will not discuss them further than to note that this statute reinstated our old friend, the parish judge, as *ex officio* president of the police jury:

"... That in the Parish of St. Mary, and in the several parishes to which this act applies, the Parish of East Baton Rouge excepted, the parish judges shall be *ex officio*, presidents of the police juries in their respective parishes any law to the contrary notwithstanding."

An act of March 10, 1834, further defined the boundary line between the parishes of Catahoula and Ouachita;<sup>203</sup> an act of March 13, 1835, changed the seat of justice of Livingston Parish from Van Buren to Springfield and appointed a commission to erect new public buildings at the latter place, "to correspond in details with those already erected at Van Buren."<sup>204</sup>

Up to this time there had been no general law providing a mode of adjustment and establishment of parish boundaries. An act of March 20, 1835, was passed with the intent of obviating so much special legislation on that subject. It read:<sup>205</sup>

<sup>202</sup>Acts 1833, pp. 91-93.

<sup>203</sup>Acts 1834, p. 122.

<sup>204</sup>Acts 1835, pp. 66, 67.

<sup>205</sup>Acts 1835, pp. 144-146.

"That whenever the police jury of any parish shall pass an ordinance for ascertaining and fixing the boundary lines of any parish adjoining thereto, and shall appoint a time and place for commencing the running thereof, and shall duly serve the parish judge, parish surveyor, or any other surveyor appointed for that purpose by the police jury of said parish, and president of the police jury of said adjoining parish, with a copy of the said ordinance, with notice of the time and place for commencing the running thereof, six months previous to the time so fixed; then the parish surveyors of the said parishes shall proceed to the running and marking of the said boundary line, or fixing on any water course as a boundary line; and in case the parish surveyor of either parish shall fail to attend at the time and place appointed, then the other parish surveyor, after waiting two entire days, shall proceed to the running and marking of the said adjoining boundary line, or determining on any water course in part or in whole of said boundary line."

The law further directed the execution by the surveyors of acts of *proces verbal* of the surveys and marking of the boundary, the same to be filed for preservation with the parish judges of the respective parishes affected.

The act of March 28, 1835, delienated anew the eastern boundary of the Parish of Catahoulas.<sup>206</sup> It repealed the act of March 10, 1834, defining the boundary between Catahoulas and Ouachita, and reestablished that part of the boundary as it was under the act of 1830.

The parish seat of Claiborne Parish was ordered removed from Russellville to a site to be selected by named commissioners and to be within three miles of the residence of Newit Drew, by an act of March 1, 1836.<sup>207</sup>

An act of February 23, 1837, related to the troublesome boundary between the Parishes of Pointe Coupee and West Baton Rouge; the *same act* also further defined the boundary between St. Mary and Assumption.<sup>208</sup> This Banquo's ghost, the Pointe Coupee-West Baton Rouge boundary, appeared again in the act of February 12, 1838.<sup>209</sup>

<sup>206</sup> Acts 1835, pp. 160, 161.

<sup>207</sup> Acts 1836, p. 74.

<sup>208</sup> Acts 1837, No. 28, pp. 22, 23.

<sup>209</sup> Acts 1838, pp. 21, 22.



The years 1838 and 1839 were banner years for the creation of new parishes. The act of January 18, 1838,<sup>210</sup> created the new Parish of *Cado* out of the northwestern portion of the Parish of Natchitoches; the act of January 19, 1838,<sup>211</sup> carved the new Parish of Madison from the northern area of Concordia and established its seat of justice at McEachern's Point, to be called Richmond; the act of March 6, 1838,<sup>212</sup> created the Parish of Caldwell out of the southern portion of Ouachita and the northern part of Catahoula; and the act of March 13, 1839, gave birth to the Parish of Union, the child of Ouachita.<sup>213</sup>

Act No. 11 of 1839 fixed the location of the seat of justice of Plaquemines Parish;<sup>214</sup> and a portion of Carroll Parish was annexed to Madison by the act of March 14, 1839.<sup>215</sup>

The act of March 20, 1839, created the office of notaries public for a number of parishes named. There had been many previous special acts of this character which we have not noted. This statute contained a general provision requiring all Notaries, except in the Parish of Orleans, to deposit with the parish judge, or recorder of mortgages as the case may be, all acts executed before them, within twenty days from execution, the same to be forthwith filed by the parish judge or recorder of mortgages and speedily recorded in the proper record books.<sup>216</sup>

An act of March 26, 1840,<sup>217</sup> created the Parish of Calcasieu out of territory formerly within the Parish of St. Landry; the act of February 3, 1841, related to the boundaries of the Parish of Ascension;<sup>218</sup> and a specified area of country was annexed to the Parish of Ouachita by the act of February 6, 1841, which seems to have affected the boundaries of the parishes of Caldwell and Union.<sup>219</sup>

In chronological order, we should begin the insertion of the several acts which were passed leading up to and culminating in the adoption of the constitution of 1845, but it would seem more logical to pretermit these in order that the whole subject may be presented without the interjection of other matter.

<sup>210</sup>Acts 1838, pp. 11-13.

<sup>211</sup>Acts 1838, pp. 13, 14.

<sup>212</sup>Acts 1838, No. 48, pp. 38-41.

<sup>213</sup>Acts 1839, No. 12, pp. 22-27.

<sup>214</sup>Acts 1839, No. 11, p. 20.

<sup>215</sup>Acts 1839, No. 31, pp. 82, 83.

<sup>216</sup>Acts 1839, No. 62, pp. 194-197.

<sup>217</sup>Acts 1840, No. 72, pp. 72-75.

<sup>218</sup>Acts 1841, No. 8, p. 7.

<sup>219</sup>Acts 1841, No. 13, pp. 10, 11.

By an act of March 8, 1841, parish judges were required to keep their offices at the respective parish seats; and the police juries of the respective parishes were enjoined to provide "good and suitable fire-proof offices" for that purpose within twelve months after the passage of the act. Any judge who failed to comply with the statute after such office was completed was subject to the imposition of a penalty of \$100 per month.<sup>220</sup>

The act of March 8, 1841,<sup>221</sup> recited the making of a mistake in the enrolling room as to the boundary of Ascension Parish in the act of February 3, 1841, and the error was corrected; the limits of the Parishes of St. Bernard and Plaquemines were the subject of an act approved January 12, 1842;<sup>222</sup> the act of January 27, 1842, related to the oft-changed boundaries of Ouachita;<sup>223</sup> the act approved February 8, 1842, directed the removal of the parish seat of Claiborne from Overton to Minden;<sup>224</sup> the act of February 10, 1842, annexed to the Parish of Catahoula certain described territory theretofore within Avoyelles;<sup>225</sup> and the act of March 15, 1842, authorized an election to determine the location of the parish seat of Avoyelles and the removal of the court house and other public buildings.<sup>226</sup>

A reapportionment of representatives in the State Legislature was made by the act of December 31, 1841. The apportionment was entirely by parishes instead of counties as theretofore.<sup>227</sup>

The statute of March 26, 1842, levied against each *parish* a direct State tax on real estate for the year 1842 "and every succeeding year thereafter until otherwise provided by law." There was a detailed schedule of apportionment, the lowest being for the Parishes of Calcasieu and Union, one hundred dollars each, and the highest being for the Parish of Orleans, \$55,550.<sup>228</sup> Some licenses and occupational taxes were also levied. It is noteworthy that formerly such tax levies had always been made against the counties.

<sup>220</sup>Acts 1841, No. 77, pp. 61, 62.

<sup>221</sup>Acts 1841, No. 83, pp. 67, 68.

<sup>222</sup>Acts 1842, No. 14, pp. 20-23.

<sup>223</sup>Acts 1842, No. 19, pp. 30, 31.

<sup>224</sup>Acts 1842, No. 36, pp. 80-87.

<sup>225</sup>Acts 1842, No. 43, pp. 106-109.

<sup>226</sup>Acts 1842, No. 108, pp. 284-287.

<sup>227</sup>Act No. 3, Spec. Sess. 1841, bound with acts 1842, pp. 6, 7.

<sup>228</sup>Acts 1842, No. 154, pp. 430-443.

Police Juries were empowered by an act of March 26, 1842, to levy taxes for the support of the public schools in their respective parishes and to make all necessary regulations for the same.<sup>229</sup> Orleans parish was excepted; and the prodigality or liberality of police juries was held in leash by the provision:

"That no individual shall be assessed and liable to pay annually for the support of the public school in his parish, a sum exceeding one-half part of his annual state tax."

The law repealed all former appropriations for schools, and provided that:

"Whenever the parish judge and a majority of the members of the police jury of each parish shall certify to the Governor that a sum not exceeding \$400.00, and not less than \$200.00, has been assessed in said parish for the support of the common schools in said parish, the Governor shall authorize the Treasurer of the State to pay a sum *double the amount so assessed*, to the parish judge of said parish, on his own warrant, to be applied to the same object every year."

An act of March 26, 1842,<sup>230</sup> provided that the boundaries between Assumption and Ascension "be and remain as they are laid down on Catisby Graham's map of the State of Louisiana, any law to the contrary notwithstanding;" the act approved February 23, 1843, repealed a former act removing the parish seat of Claiborne from Overton to Minden and authorized the police jury to select a site within three miles of the center of the parish.<sup>231</sup>

Bossier Parish was created out of a portion of Claiborne by the act of February 20, 1843;<sup>232</sup> Franklin Parish was carved out of portions of Catahoula, Ouachita and Madison, as they then existed, by the Act of March 1, 1843, and the seat of justice of Franklin was directed to be located by the police jury "as near as possible to the center of said parish, as designated on the map of said contemplated parish by James McCoy."<sup>233</sup>

The act of March 7, 1843, created the Parish of Sabine in the western part of the "County of Natchitoches," with its parish seat at Many;<sup>234</sup> and an act of March 7, 1843, formed the Parish

<sup>229</sup>Acts 1842, No. 155, pp. 444-451.

<sup>230</sup>Acts 1842, No. 168, pp. 514, 515.

<sup>231</sup>Acts 1843, No. 29, p. 16.

<sup>232</sup>Acts 1843, No. 33, pp. 17-19.

<sup>233</sup>Acts 1843, No. 41, pp. 22-24.

<sup>234</sup>Acts 1843, No. 46, pp. 26-28.



of Tensas out of the northern area of Concordia and empowered its police jury to locate its seat of justice "at or near the center of the parish, on the banks of the Mississippi River, and which shall be called the Town of St. Joseph."<sup>235</sup> It may be said that all of these statutes creating new parishes are quite lengthy, and, besides a detailed boundary delineation, they usually provide for the appointment or election of the parish officials, the selection of a site for the parish buildings, the authorization of a tax levy for construction and for parish administration, the readjustment of the state tax apportionments, and the removal of public records.

That ancient curiosity, the *County of German Coast*, still survived in 1842. By act of March 27, 1843, the State Treasurer was authorized to receive from the Sheriff of that County a sum of money in depreciated bank notes which he had accepted in payment of State taxes for 1842. He had taken them "in good faith, a few days previous to the failure of said bank."<sup>236</sup>

The Parish of DeSoto was created by the act of April 1, 1843, from portions of the parishes of Caddo and Natchitoches; and in its last section (11th) it also annexed a small scope of country to the Parish of Sabine.<sup>237</sup> Another act of same date authorized an election to re-locate the parish seat of Calcasieu.

The number of parish assessors in the state was reduced by the act of April 6, 1843. By this act each parish was limited to one assessor, except that there should be three for the City of New Orleans "and one for that part of the Parish of Orleans situated on the right bank of the river." Their salaries were graduated—the three assessors in the City received \$800 each, and in most of the parishes the annual salaries ranged between \$100 and \$250.<sup>238</sup>

An act of April 6, 1843, divided the State into four Congressional Districts, by parishes;<sup>239</sup> an act of February 29, 1844, separated the State into six Electoral Districts for Presidential electors, and most of the territorial apportionment is by parishes, but we find this:

"The Counties of Attakapas and Opelousas, and the Parishes of Rapides and Avoyelles, shall constitute the Fifth District;

<sup>235</sup>Acts 1843, No. 61, pp. 35-38.

<sup>236</sup>Acts 1843, No. 82, p. 50.

<sup>237</sup>Acts 1843, No. 88, pp. 52-54; Act No. 130, pp. 88-90.

<sup>238</sup>Acts 1843, No. 97, pp. 63-65.

<sup>239</sup>Acts 1843, No. 101, pp. 69, 70.

"The Counties of Natchitoches, Ouachita and Concordia, and the Parishes of Catahoula and Franklin shall constitute the Sixth District."<sup>240</sup>

By an act approved March 11, 1844, the boundaries of Franklin Parish were changed;<sup>241</sup> and the act of March 18, 1844, authorized elections to be held in the Parishes of Caddo, Sabine and Franklin to settle the location of their respective seats.<sup>242</sup> The act of March 25, 1844, created the new Parish of Vermilion out of a part of Lafayette;<sup>243</sup> Morehouse Parish was carved from Ouachita by the act of March 25, 1844;<sup>244</sup> and the Parish of Jackson was created by the act of February 27, 1845, its territory being composed of parts of Ouachita, Union and Claiborne.<sup>245</sup>

A statute of March 10, 1845, re-annexed to Catahoula Parish a certain area which had been shorn from it by an earlier act;<sup>246</sup> Caddo lost some of its domain to DeSoto by an act of March 8, 1845;<sup>247</sup> and an act of March 10, 1845, empowered the voters of the parishes of Vermilion, Tensas, and Morehouse, respectively, to hold elections to fix their parish seats.<sup>248</sup>

### XIII.

#### THE CONSTITUTION OF 1845.

The State of Louisiana had now outgrown the constitution of 1812. For some years there had been a continuous and increasing agitation for its amendment in many respects. It was vigorously denounced as being aristocratic rather than democratic in its suffrage provisions, which restricted the electorate to the landholding class; all officers, or most of them, had to be of that class; too many officers were appointive rather than elective; the method of electing a governor was unsatisfactory; there was no lieutenant governor; apportionment of members of the general assembly was inequitable and the "county" system in that respect cumbersome and archaic. The agitation for a

<sup>240</sup>Acts 1844, No. 36, p. 21.

<sup>241</sup>Acts 1844, No. 42, pp. 23-24.

<sup>242</sup>Acts 1844, No. 65, pp. 32, 34.

<sup>243</sup>Acts 1844, No. 81, pp. 45-47.

<sup>244</sup>Acts 1844, No. 118, pp. 77-79.

<sup>245</sup>Acts 1845, No. 38, pp. 16-19.

<sup>246</sup>Acts 1845, No. 111, p. 68.

<sup>247</sup>Acts 1845, No. 135, pp. 77-78.

<sup>248</sup>Acts 1845, No. 143, pp. 82, 83.

liberal amendment of the constitution was led by such men as Benjamin and Roselius, while the conservative element, the aristocratic party, opposing change, was captained by such outstanding leaders as Conrad, Downs,<sup>240</sup> and Preston. These two adverse schools, then denominated "aristocrats" and "democrats," would probably be known today as "conservatives" and "progressives," or as adhering to the "Right" and the "Left."

The constitution of 1812 never had been and, as we shall see, never was amended. Any alteration or amendment of it was an exceedingly prolonged and difficult matter as a result of the provisions of Article VII. That article provided:

"When experience shall point out the necessity of amending this constitution, and a majority of all the members elected to each house of the General Assembly shall, within the first twenty days of their stated annual session, concur in passing a law, specifying the alterations intended to be made, for taking the sense of the good\* people of the state as to the necessity and expediency of calling a convention, it shall be the duty of the several returning officers, at the next general election which shall be held for Representatives after the passage of such law, to open a poll for, and make return to the Secretary for the time being, of the *names* of all those entitled to vote for Representatives, who have voted for calling a convention . . . ."

Upon the submission of the election returns to the General Assembly at its next regular session, if it was found that the proposition had carried, then the General Assembly was required to pass an act directing a similar poll during the succeeding year and a return thereof as in the first instance. If the electorate had voted a second time in favor of a convention, the General Assembly was enjoined to call a convention and to order a third election for choice of its members. This cumbersome method was exclusive. While no one could be found to advocate it today, have we not gone to the other extreme in the facility with which our constitution is now amended a half dozen or more times following every session of the Legislature?

<sup>240</sup> Mrs. Minnie M. Ruffin & Miss Lilla McLure, *General Solomon Weathersbee Downs, La. Hist. Qy.*, Vol. 17, No. 1, Jan., 1934, pp. 5-47, containing a resumé of constitutional changes, etc.

\*Why "the good people?" Each constitution to 1868 carried the same verbiage. Its use in 1868 would have been ironical. The "registered voters" of 1868 became "the qualified electors" or simply "the electors" in succeeding constitutions. We can see the coiner of the term "the good people" as reincarnated in some modern hawker to "the common people" and a professed twin-brother to "the Forgotten Man."



The first step looking to the amendment of the constitution was the passage of Act No. 5, approved January 30, 1841,<sup>250</sup> entitled: "An act for taking the sense of the good people of this state as to the necessity and expediency of calling a convention to *amend* the Constitution," and it embodied the essentials required by Article VII. This act proposed a convention to *amend* the constitution in the following particulars:

- "1st—That the eighth section of the second article of the constitution be amended so as to fix and determine in a more specific manner the qualifications of all persons exercising the right of suffrage.
- "2nd—That a more equal and just system of representation both in the Senate and House of Representatives be adopted, so that each Parish and every section of the State may be more equally represented in proportion with the respective population of each.
- "3rd—That the governor be elected by the people alone, without the intervention of the Legislature, whenever he shall have had an absolute majority of the whole vote given.
- "4th—That the second and third sections of article 4th of the constitution be amended so as to enable the Legislature, if they deem proper, to enlarge the jurisdiction of the Supreme Court, by conferring on it a general supervisory control over inferior courts, and making it a Court of Errors in civil and criminal cases.
- "5th—That the third section of said article 4th of the constitution be amended so as to authorize other places besides those mentioned in said section for holding the sessions of the Supreme Court.
- "6th—That the preamble of the Constitution be amended so as to include the Florida section of the State in the formerly prescribed limits of the State of Louisiana."

The act then proceeded to fix the time for the election, its conduction, and the certification and return of the yea and nay vote.

As the next step in this important matter we find that the Legislature passed an act, approved February 25, 1842,<sup>251</sup> with the title: "An act to explain an act entitled 'An act for taking the sense of the good people of the State as to the necessity and expediency of calling a convention to amend the constitution,'

<sup>250</sup>Acts 1841, pp. 5, 6.

<sup>251</sup>Acts 1842, No. 62, pp. 158-163.

approved Jany. 30, 1841." This amendatory statute merely clarified the directory details as to the method of voting and the certification and submission of the returns.

Act No. 7, approved January 26, 1843, recited in its preamble that the election ordered had theretofore been held and that a majority of the qualified electors of the State had "voted for a convention to *amend* the constitution." It further enacted that, in accordance with the constitution, the proposition be again submitted to the electorate "on the first Monday in July, 1843, and the two succeeding days, in the same manner as the election was held in 1842 . . ."<sup>252</sup> This second election resulted as the first.

Thereupon, the Legislature passed Act No. 64, approved March 18, 1844, entitled: "An act to provide for the calling of a Convention for the purpose of readopting, amending or changing the Constitution of the State."<sup>253</sup> It may be noted that the title of this statute is broader than those of the previous acts and is an enlargement of the proposition twice submitted to the electorate. The law being presently considered contained six sections, the first section, in part, reading:

"That at the time of choosing Representatives to the State Legislature, at the next July election, there shall also be elected seventy-seven persons to serve in a State Convention, as follows, to-wit: For each of the seventeen Senatorial Districts one member"—and this being followed by an apportionment of the balance of the membership among the several *parishes*.

There is no reference to "counties" in this act. Section two is concerned with the manner of holding and returning the election of delegates; section three fixes the time of the assembling of the Convention, the first Monday of August, 1844, "at the town of Jackson, in East Feliciana;" section four makes an appropriation of fifty thousand dollars for its expenses; section five appoints a committee to arrange its housing and other matters; and section six concerns the manner in which vacancies in its membership, caused by death or resignation, shall be filled. Attention is directed to the quoted title of this act for the reason that nowhere else in it is there any indication or suggestion of the purpose for which this convention was to be held—the

<sup>252</sup>Acts 1843, No. 7, pp. 4, 5.

<sup>253</sup>Acts 1844, No. 64, pp. 31, 32.

*enactment* is entirely silent in that respect; the "State Convention" mentioned in Section One and the several references thereafter to "said Convention" could as well have applied to a convention called by the Legislature for almost any other purpose.

The year 1845 brought to its close an era in Louisiana's history which we are pleased to call, and we think rightly, the formative period. The milestone which stood beside the road was the Constitution of 1845. The members elected to the convention met at the little town of Jackson in the Parish of East Feliciana, on August 5th, 1844, and a permanent organization was effected with the election of General Joseph Walker as President and Horatio Davis as Secretary. Jackson being an unsuitable place, the Convention adjourned on August 24th, to reassemble in New Orleans on the 14th of January, 1845, where the deliberations were continued. The instrument which was finally evolved was duly adopted and signed on the 14th of May, 1845; it was ratified by the "good" people of the State at the next succeeding general election.

There will be no attempt here to analyze that constitution any further than is necessary to round out the close of our period.<sup>254</sup> A further exposition belongs to the opening era and to other chapters which some day may be written. It is well to observe, however, that the delegates to this convention were upon an entirely different footing as to their powers than was the membership of the convention of 1812. If we assume that they were entirely unrestricted by Louisiana's existing organic law and the legislative submissions of the call, they were unfettered save to the extent that their powers were circumscribed by the wise and beneficent provisions of the Constitution of the United States. The convention of 1812 was constrained to adopt a constitution which would satisfy the critical mind of the Congress and the views of the President of the United States.

The constitution of 1812 was not *amended* and no part of that instrument survived except such parts as were rewritten into the new constitution. Article 141 of Title IX ordained: "The Constitution adopted in 1812 is declared to be *superseded* by this Constitution;" but Article 142 ordained:

<sup>254</sup> Mrs. Ruffin & Miss McLure, *op. cit.* For other analyses, etc., see: William Kernan Dart's *The Constitutions* in Bobbs-Merrill *Louisiana Digest*, Vol. I; Judge Marr's paper, *op. cit.*, in Annual Report La. Bar Ass'n., Vol. 14; and Alcee Fortier's *Louisiana*, (Encyclopedic) Vol. 1, pp. 253-256 & 264-268.



"All rights, actions, prosecutions, claims, and contracts, as well of individuals as of bodies corporate, and all laws in force at the time of the adoption of this constitution, *and not inconsistent therewith*, shall continue as if the same had not been adopted."

It may be said that the three fundamental divisions of the powers of government were retained, but many changes were made affecting each department. The word "county" does not appear a single time in the new constitution. The whole theory of that instrument was "parish" autonomy; and we find, for the first time, a constitutional limitation on the creation of parishes—a limitation which has been supplemented and strengthened by later constitutions—reading:

"Each parish shall have at least one Representative; no new parish shall be created with a territory less than six hundred and twenty-five square miles, nor with a number of electors less than the full number entitling it to a Representative, nor when the creation of such new parish will leave any other parish without the said extent of territory and number of electors."

There never was a legislative act formally abolishing the old counties; nor was there such abolition by the new constitution except in the manner we have indicated, which, of course, was as complete as if it had been ordained in so many words. The old counties had virtually died years before from a pernicious political anemia—the fiction, the shadow without the substance, had been retained because the constitution of 1812 had contemplated county divisions and had partitioned the State into fourteen Senatorial Districts "to forever remain indivisible," each District to consist of given counties. The process of indirect legislative robbery which was indulged in to circumvent these provisions of the constitution of 1812 forms a novel and obscure chapter in our State's history. The old counties may be likened to a row of old picture frames which were allowed to hang on the wall for many years after the portraits had been removed.

One other change is worthy of mention. The constitution of 1845 vested the judicial power "in a Supreme Court, in district courts and in justices of the peace." The direct result of this was the abolition of the old parish court with its parish judge and the vesting of its jurisdiction in the district courts and jus-

tices of the peace. But the constitution of 1852 almost went back to the broad provision of the constitution of 1812 when it ordained:

"The judiciary power shall be vested in a Supreme Court, in such inferior courts as the Legislature may from time to time ordain and establish, and in justices of the peace."

Under this flexible article the old parish court was re-created and remained with us until the adoption of the constitution of 1879, by which it was again abolished. The old parish judge, like the "Old Kentucky Colonel," is no longer with us.

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#### XIV.

#### A RESUMÉ

It seems pertinent that some further explanation of our research and survey of the Session Laws should be made. It is our belief that we have noted every act of the Legislature creating a county or parish during the period covered (1805-1845); and also every statute defining, changing or authorizing a change of parish boundaries, or upon the subject of the location or change of parish seats. To have delineated all of the frequently shifting parish boundaries would have needlessly encumbered and utterly confused this work.

In this survey we have also confined ourselves, with only a few exceptions, to the laws of a general nature, applicable to the whole area of the Territory or State, as the case may be, and especially so as concerns the police juries. During the two decades preceding the Constitution of 1845 there was a great mass of special legislation having to do with the supposedly special problems of some one parish or other. During the '30's and early '40's, particularly, it became almost a custom to legislate for the parishes individually rather than collectively. Scores of acts were passed empowering the police jury of one parish or another, by name, to do certain things with regard to its police, roads, levees, schools, elections, and other matters which seemed to require deviation from the general laws that had been enacted. Summing up this result, we would say that at the close of this period so much of this special parish legislation had

been adopted that each parish was operating almost on a special legislative code of its own, rather than under the numerous general delegations of power. It would have been utterly impracticable to have attempted a resumé of this mass of special parish legislation in this work. Caution prompted its omission altogether, and we leave the subject with the suggestion that research for any local parish history must take this into account.<sup>255</sup>

In making this page-by-page examination of the Session Laws, many curious and interesting things historically have been passed over as not being germane to our subject. Since the adoption of the Revised Statutes of 1870 the old Session Laws prior to that time are no longer part of the working library of the lawyer, and our courts rarely have occasion to delve into their ancient pages. They have, however, great historical value, and each little volume contributes much to the sum of source material on our State's history.

There was no constitutional provision prior to 1845 inhibiting the enactment by the Legislature of purely private, local, and special laws. During this early period the volume of such legislation was enormous, and it covered a wide range: It divorced John Smith from Mary Smith; it emancipated Charles Gayarré, or some other youth who never climbed the slippery ladder to fame; it authorized schools, charitable institutions, churches, and improvement companies, by name and location, to conduct lotteries to raise the revenue for the advancement of their purposes; and it even authorized Bill Jones, of some place or other, to dispose of his property by that method. It granted franchises without number, to various individuals all over the state, to operate ferries, tollbridges and tollroads. Prior to the Constitution of 1845 all corporations—municipal, charitable, religious, and business—were chartered by special legislative act. These charters of towns, railroads, navigation companies, churches of all denominations, hospitals, schools, libraries, banks, insurance companies, turnpike and bridge companies and other corporations, with their long lists of promoters, officers, and directors, give us a good insight into the growth of our State and its individual communities.

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<sup>255</sup>Fortier's *Louisiana*, 3 Vols., 1914, is invaluable for the collection of material for a local history; as is also Judge F. X. Martin's *Index-Digest of the Acts of the Legislature*, . . . . ., and Moreau Lislet's *General Digest of the Acts of the Legislature, 1804 to 1827*, 2 Vols., 1828.



In an examination of the acts of the Legislature much is lost sight of by merely running the indices. Titles of acts are very often misleading, resulting in an insufficient index. Very frequently an act contains important matter entirely foreign to its title.<sup>286</sup> To illustrate, an act entitled "An act authorizing the creation of an additional ward in the Parish of Jefferson," may not only contain that, but may go on and provide for election precincts in the Parish of Claiborne and for additional notaries in the Parish of Rapides. The confusion which resulted from this abominable practice prompted the framers of later constitutions to ordain that every law should embrace but one object which must be expressed in its title—a sensible and wise provision which our courts have uniformly enforced. While many of our session laws, even to one interested in historical research, are as dry and lifeless as Egyptian mummies, if one has the time to sacrifice to their careful examination and the necessary hardihood for the undertaking, the historical knowledge gained is well worth the price paid.

We have termed the period covered by this paper the formative period, because, in the main, the great fundamentals of our local and state governmental systems originated and were worked out during that time. As the scroll of the years has lengthened every phase of our social and economic life has broadened and become more complex; and governments, whether national, state, or local, must perforce keep apace. Change there has been, constant change; but more often the change has been merely one of method—a striving to evolve an ideal administrative system—that system which is as illusive as a desert mirage.

At the beginning of our era we found the major portion of the population of Louisiana ignorant and suspicious of the American system—prejudiced against it. Likewise, we found the "American" population ignorant of and prejudiced against the traditions, customs, and civil laws of the Frenchman. These contrarieties in the two schools of thought had to meet and

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<sup>286</sup>Chief Justice Eustis, in *Walker vs. Caldwell*, 4th. La. Annual, 298, (1849) said as to this:

"The title of an act often afforded no clue to its contents; important general provisions were found placed in acts private or local in their operation; provisions concerning matters of practice or judicial proceedings were sometimes in the same statute with matters entirely foreign to them; the result of which was that, on many important subjects, the statute law had become almost unintelligible, as they whose duty it has been to examine, or to act under it, can well testify. To prevent any further accumulation to this chaotic mass was the object of the constitutional provision under consideration . . ."

clash and find a common genesis in a mutual understanding of their respective aspirations; and when that was accomplished there was worked out those great fundamentals of our system which have stood the test of time.

At the close of our survey we find that Louisiana had been divided into forty-six parishes: Orleans, Plaquemines, St. Bernard, Jefferson, St. Charles, St. John the Baptist, St. James, Ascension, Assumption, LaFourche Interior, Terrebonne, Iberville, West Baton Rouge, East Baton Rouge, West Feliciana, East Feliciana, St. Helena, Washington, Livingston, St. Tammany, Pointe Coupee, Concordia, Tensas, Madison, Carroll, Franklin, St. Mary, St. Martin, Vermilion, Lafayette, St. Landry, Calcasieu, Avoyelles, Rapides, Natchitoches, Sabine, Caddo, DeSoto, Ouachita, Morehouse, Union, Jackson, Caldwell, Catahoula, Claiborne and Bossier.

Many of these have in turn been divided and subdivided until we now have sixty-four. And sixty-four parishes, with as many police juries functioning in their dual legislative and administrative capacities, exercising the great power of taxation within legislative and constitutional limits, and disbursing annually public funds running into the millions, constitute a tremendous political institution which is close to and affects every citizens of the State.

With his usual depth of thought and aptness of expression, James M. Beck has said:

"As a 'jest's prosperity lies in the ear of him that hears it,' similarly the strength of any political institution must lie in the capacity of a people to bring it into being and to perpetuate in practice its existence."

The writer's concluding thought is that our forebears, whether "Ancient Louisianians" or "Americans," had that capacity.

#### THE END.

The idea of a paper on this subject was suggested to me by Mr. Henry P. Dart, and its fruition results from his inspiration. The writer wishes to acknowledge the liberal use of the splendid law libraries of Judge John Dale and Hon. G. P. Bullis, of Vidalia, supplementing his own. Invaluable assistance in obtaining many of the historical works used was rendered by Miss Sarah Jones, Librarian of the Concordia Parish Library, and by the Louisiana Library Commission at Baton Rouge.

Among others who have been helpful are: Dr. G. Lugano and Miss Laura L. Porteous, of New Orleans, Mr. Robert J. Usher, of the Howard Memorial Library, New Orleans, and Mr. James A. McMillen of the Hill Memorial Library, Louisiana State University, Baton Rouge. The manuscript was carefully checked for errors in grammatical construction and punctuation by Robert D. Calhoun, Jr., of the Senior class of Vidalia High School, thereby improving its style.

R. D. C.

Vidalia, La., March 1, 1934.

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THE ORIGIN AND EARLY DEVELOPMENT OF COUNTY-  
PARISH GOVERNMENT IN LOUISIANA, (1805-1845.)

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clash and find a common genesis in a mutual understanding of their respective aspirations; and when that was accomplished there was worked out those great fundamentals of our system which have stood the test of time.

At the close of our survey we find that Louisiana had been divided into forty-six parishes: Orleans, Plaquemines, St. Bernard, Jefferson, St. Charles, St. John the Baptist, St. James, Ascension, Assumption, LaFourche Interior, Terrebonne, Iberville, West Baton Rouge, East Baton Rouge, West Feliciana, East Feliciana, St. Helena, Washington, Livingston, St. Tammany, Pointe Coupee, Concordia, Tensas, Madison, Carroll, Franklin, St. Mary, St. Martin, Vermilion, Lafayette, St. Landry, Calcasieu, Avoyelles, Rapides, Natchitoches, Sabine, Caddo, DeSoto, Ouachita, Morehouse, Union, Jackson, Caldwell, Catahoula, Claiborne and Bossier.

Many of these have in turn been divided and subdivided until we now have sixty-four. And sixty-four parishes, with as many police juries functioning in their dual legislative and administrative capacities, exercising the great power of taxation within legislative and constitutional limits, and disbursing annually public funds running into the millions, constitute a tremendous political institution which is close to and affects every citizens of the State.

With his usual depth of thought and aptness of expression, James M. Beck has said:

"As a 'jest's prosperity lies in the ear of him that hears it,' similarly the strength of any political institution must lie in the capacity of a people to bring it into being and to perpetuate in practice its existence."

The writer's concluding thought is that our forebears, whether "Ancient Louisianians" or "Americans," had that capacity.

#### THE END.

The idea of a paper on this subject was suggested to me by Mr. Henry P. Dart, and its fruition results from his inspiration. The writer wishes to acknowledge the liberal use of the splendid law libraries of Judge John Dale and Hon. G. P. Bullis, of Vidalia, supplementing his own. Invaluable assistance in obtaining many of the historical works used was rendered by Miss Sarah Jones, Librarian of the Concordia Parish Library, and by the Louisiana Library Commission at Baton Rouge.

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**EDITORIAL CHANGE**

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The Louisiana Historical Society announces with deep regret the death of Henry Plauché Dart, Archivist of the Society and Editor of the Louisiana Historical Quarterly, which occurred on September 27, 1934.

As Archivist of the Louisiana Historical Society, Mr. Dart was a leader in securing the necessary funds and arranging for the preservation, translation, indexing, calendaring, and publication of the French and Spanish colonial records of Louisiana. It was largely through his efforts that this work has been continued to the present time, thus accumulating and making readily available to students and research workers in early Louisiana History a vast store of valuable source material on the early settlement and development of the lower Mississippi Valley.

The Louisiana Historical Quarterly, as the official journal of the Louisiana Historical Society, had been started in 1917, under the editorship of the late John Dymond. Mr. Dymond continued as Editor of the Quarterly until his death in 1922, though the press of many other activities and duties, the increasing infirmities of age, and continued ill health had prevented the appearance of the numbers regularly and on time. When Mr. Dart, who, as Archivist of the Louisiana Historical Society, had aided and assisted Mr. Dymond in his editorial work on the Quarterly, took over the duties of Editor in March, 1922, the publication was nearly two years in arrears. However, by dint of incessant labor and unflagging devotion to the cause, Mr. Dart was able to put through the press eight numbers of the Quarterly during the first year of his service as Editor; and by January, 1925, (Vol. VIII, No. 1), he was able to announce to the readers of the Quarterly that the publication was then up-to-date, and that the numbers might be expected to appear regularly and on time from that date forward. So punctual was Mr. Dart in his editorial labors that his promise was completely fulfilled, and the October, 1934, number (Vol. XVII, No. 4) was already in the hands of the printers when his editorial labors ceased, though he had been in declining health for some time prior to that date.

In his work as Editor of the Quarterly, Mr. Dart was ever on the alert to take advantage of opportunities for improving the quality of the publication. He continued the publication of installments of the valuable "Records of the Superior Council



of Louisiana" for the French period, which had been started by Mr. Dymond, and with the January, 1923, number (Vol. VI, No. 1) he began publishing installments of the equally valuable "Index to the Spanish Judicial Records of Louisiana." In addition to continuing the publication of these valuable source materials for the colonial period of Louisiana History, Mr. Dart induced many prominent and scholarly citizens of the State to undertake researches into the local history of their respective parishes. So fruitful were these latter efforts, that several of these parish histories have already appeared in the Quarterly during his editorship. Such careful studies in the history of the individual parishes of the State are exceedingly valuable contributions to the complete history of Louisiana.

Mr. Dart was also instrumental in inducing many scholars, from Louisiana and elsewhere, to submit for publication in the Quarterly their valuable contributions on various phases of the History of Louisiana. Thus, he was enabled to gradually raise the average standard of the articles which appeared. His plan for improvement of the quality of the Quarterly was further advanced, early in his editorial career, by the creation of the "Advisory Editorial Board" to assist him in the work of securing a constant flow of worthy articles of high merit for inclusion in the Quarterly. On this Board he placed a number of Louisiana scholars and men of affairs who, by their previous valuable contributions, had manifested a keen interest in the work of the Quarterly and in the writing of the History of Louisiana. So successful were Mr. Dart's efforts in securing desirable and pertinent materials for publication, that he had on hand ready for publication a large number of valuable contributions when his editorial labors were laid down.

One interesting feature of Mr. Dart's editorial work was his "Editor's Chair," in which he was accustomed to indulge in intimate chats with his readers. A perusal of these pages of personal comment reveals his "Philosophy of History," as well as his policies, his hopes, and his aspirations in connection with the future of the Louisiana Historical Quarterly. They reveal his keen insight into the problems of the future historians of Louisiana, his almost intuitive sense of historical values, and his uncanny historical judgments. Such qualities are all too rarely found in the work of the formally trained academic historical scholar, and they are seldom discovered in the work of the self-trained scholar of Mr. Dart's type. Hence, their presence in his

work adds to the laurels of Mr. Dart as a scholar in the broad field of History.

Mr. Dart's work as Editor of the Louisiana Historical Quarterly was truly a labor of love. He was a busy man of affairs, being senior member and head of Dart & Dart, one of the largest and most outstanding law firms in Louisiana. And it is a high tribute to his love of his native State and to his devotion to her interesting history, that he was able, amidst the affairs of a busy professional career, to find the time and strength to edit for the space of twelve long years the official record of her progress in the publication of materials on her interesting history.

In his editorial work, Mr. Dart was fortunate in having the assistance of his devoted family of worthy sons and daughters, several of whom not only aided him in his editorial labors but also contributed many valuable articles to the Quarterly on the early history of Louisiana. These members of Mr. Dart's family deserve high praise for their unselfish aid in their eminent father's noble service in such a good cause.

As President of the Board of Curators of the Louisiana State Museum, which has a close relationship to the Louisiana Historical Society, as the legal custodian of its archives, Mr. Dart was always ready and anxious to forward the work of the Historical Society in connection with the advancement of the activities of the Museum. His work on the Museum board was exceedingly valuable both to the Museum and to the Louisiana Historical Society.

The Executive Committee of the Louisiana Historical Society has selected Professor Walter Prichard, Head of the Department of History in the Louisiana State University, as Editor of the Louisiana Historical Quarterly, to succeed Mr. Dart. The new Editor has taken up the work of editing the Quarterly at the point where it was laid down by Mr. Dart. No important changes in the editorial policy are contemplated, and the articles already submitted to Mr. Dart and accepted for publication in the Quarterly will appear as soon as space permits. The former "Advisory Editorial Board" will be continued and enlarged in the future, so as to include in its membership other citizens of Louisiana who are keenly interested in the preservation and writing of her history. Mr. Dart has left as a splendid legacy to his successor in the editorial chair a very high standard, as State historical journals go; and the new editor will strive to

continue without a break the fine editorial work which his predecessor had carried on so long and so well.

Articles submitted for publication in the *Louisiana Historical Quarterly* should be addressed to Professor Walter Prichard, Louisiana State University, Baton Rouge, Louisiana.

The Louisiana Historical Society held an appropriate and impressive Memorial Service at the Cabildo in New Orleans, on the evening of October 23, 1934, as a fitting tribute to the memory of the late Mr. Dart. On this occasion outstanding members of the official and academic circles of the City of New Orleans and the State of Louisiana participated. Many well-deserved and fine tributes were paid to the memory of Mr. Dart by prominent officials, scholars, and citizens who had been closely associated with him in his work as an eminent lawyer, a distinguished scholar, and an outstanding public-spirited citizen of his home City and his native State.

It had been planned to include in this number of the *Quarterly* the full program of these "Commemorative Exercises" in memory of Mr. Dart, but inability to secure the copy in time for its inclusion in the January number has made this plan impossible of fulfillment. It will therefore appear in the April number of the *Quarterly*.

EDITOR LOUISIANA HISTORICAL QUARTERLY.



**RECORDS OF THE SUPERIOR COUNCIL OF LOUISIANA  
LXII.**

**April, 1747.**

(Continued from July, 1934, Quarterly)

By **HELOISE H. CRUZAT.**

Marginal Notes by Henry P. Dart.

**By the Editor of the Quarterly**

List of Officials of Louisiana participating in the work of the Superior Council of Louisiana contained in this installment:

de Vaudreuil, Pierre Rigaud Cavagnol, Governor	De Benac, Etienne, Town Major of New Orleans
Le Normant, Sebastian Fran- cois Ange, First Judge and Commissaire Ordonnateur	Raguet, Jean Baptiste, Councillor
Fleuriau, Francois, Procureur General	Lafreniere, Nicolas Chauvin de, Councillor
Henry, Nicolas, Clerk of the Superior Council and Notary	Prat, Jean, Councillor
Chantalou, Augustin, Sheriff	LeBretton, Louis Cesaire, Councillor
Lenormand, Marin, Deputy Sheriff	Cantrelle, Jacques, an employee

April 3, 1747.  
29168. fo. 1.  
4309. 4 pp.

Marriage contract  
Jacques Vincent Le Pre,  
Marine Captain and  
Dame Christine Allard,  
widow of Jean Labbe.

**Marriage Contract of Jacques Vincent Le  
Pre, Marine Captain, widower of Maid  
Therese Boucher, a native of St. Malo, and  
Dame Christine Allard, widow of de-  
ceased Jean Labbe, a native of Lyons,  
both residents of this Colony. Signed:  
Jacques Vincent Lepre. Lememme. chis-  
tine alar veuve labbé. Dlle Dupar. labbe.  
avignon. Cantrelle. Chantalou. Henry,  
notary. Document in good condition.**

April 3. 2½ pp.

Petititon by Nicolas  
Chauvin de Boisclair,  
curator to Francoise,  
Marguerite and Lau-  
rence, minor daughters  
of Joseph Chauvin Delery,  
deceased, and of Fran-

**Petition to Superior Council by Nicolas  
Chauvin de Boisclair, acting as Curator to  
Francois, Marguerite and Laurence, minor  
daughters of deceased Joseph Chauvin  
Delery and of Francoise Laurence Le  
Blanc, now wife of Sieur de Monbrum, for**

coise Laurence La-  
Blanc, now wife of Sieur  
de Bonbrum, to be au-  
thorized to hire out  
eleven negroes of said  
children.

permit to hire eleven negroes, which can-  
not be divided in three as the minors are  
responsible one for another until their  
majority, the amount of said hire to be  
divided between the three heirs.

Signed: Chauvin Boisclair. Marguerite Delery. Chauvin  
Delery. Laurence Delery.

April 3. Order to communicate to the Procureur General.  
Signed: Lenormant. April 3. Demand of Procureur General  
that the negroes be leased for three years in the usual judicial  
manner. Signed: fleuriau.

Public notice that the  
lease of the negroes for  
three years will be cried  
at auction.

April 4. Notice to the public that in  
execution of order following petition of  
"Nicolas Chauvin de Boisclair" as curator  
of minor heirs of Sr. Delery, that on the  
following day, at 9 o'clock A. M. the

lease of these negroes will be cried for three years, and adju-  
dicated to the highest bidder. Published and posted after High  
Mass to the roll beat of the drum at the door of the Church,  
at the door of the Council by Sheriff Lenormand. Document in  
good condition.

No. 1087.  
Listed 476. 3 pp.

Lease of the Delery  
negroes (only seven  
instead of eleven as  
stated above) to Sr.  
Dubois for 930 livres,  
payable every six  
months.

April 5. Lease of eleven negro slaves  
owned by succession of deceased Sr.  
Joseph Chauvin de Lery, the amount of  
their hire to be divided between the three  
minors, seven negroes named: Guibela,  
Gagnin and his wife Habeney, Daouneys,  
Nianga, Zenon (boy), and Souman, on  
usual conditions and clauses, the price of  
adjudication to be paid regularly every

six months; the lessee to be held accountable for all accidents  
that may be foreseen, such as a fall from a tree, drowning in  
the River or Lake or elsewhere, fall from a building, etc., the  
lessor being responsible only for natural death. They are to be  
fed, lodged and treated when ill, and no deduction to be made  
on the amount of lease even if they run away, the lessee to  
furnish bond for the full value of the slaves before delivery,  
who shall remain in Registry until bond given, it being under-  
stood that they are not to be hired by lessee to others, etc. The  
negroes were adjudicated to Sr. Dubois for the sum of 930 ls.  
costs to be paid by lessee. Signed: Dubois. Devius. fleuriau.  
Raguet. Document in good condition.

April 3. 29172.  
fo. 1. 4810.  
8 pp. 29178.

Obligation of Charles Laverigne to Prat.  
Papers left by Laverigne in possession of  
Sr. Moulin, with his procuration to act for

Acknowledgement by Sr. and Dame Charles de la Vergne of debt of 16000 livres and 3200 Spanish piastres payable in six years at 5% annual interest. Name of creditor omitted by translator.

him during his absence. Act passed in the presence of Chantalou and Jacques Cantrelle, Sr. and Dame Charles de la Vergne acknowledging a debt of sixteen thousand livres just loaned and of three thousand two hundred piastres in Spanish money to be paid by their representative,

Sr. Moulin, in six years with interest at 5% the principal being paid yearly and the interest to diminish consequently. Signed: Lavergne. Carriere de Lavergne. Chantalou. Cantrelle. Henry, notary.

April 3. 1½ pp.

Suit by Pierre Voisin against Don Bernard Buscaron for 450 piastres.

**Petition to M. Le Normant by Pierre Voisin** for citation of Don Bernard Buscaron for recovery of money due on merchandise to the amount of 450 piastres. Signed: P. Voisin.

Order to Buscaron to appear before Judge Le Normant within three days to answer on above petition. Signed: Lenormant.

April 6. Notices of citation before Council served on Sr. Pierre Voisin at his domicile and on Don Bernard Buscaron, paymaster of Santa Rosa Island, at present in New Orleans. Signed: Lenormant.

April 5. 1½ pp.

Suit by Morisset, merchant in New Orleans against Bernard Buscaron. The defendant is the paymaster of Santa Rosa Island, now in New Orleans and the debt is alleged to be of long standing.

**Petition to Judge Le Normant by Sr. Morisset**, merchant of New Orleans, for citation of Don Bernard Buscaron, paymaster of Santa Rosa Island, now in New Orleans, for recovery of a long standing debt, by any possible means that justice commands, seizure or bodily apprehension. Signed: Morisset.

April 5. Cited to appear within three days to answer on above petition. Signed: Lenormant.

April 6. Notices served on Sr. Morisset and Don Buscaron to appear before the Commissioner of the Marine. Signed: Lenormant.

Inclosed in previous document:

Documents filed with above action.

March 1, 1744. Copy of a letter written by Don Bernard Buscaron asking for 450 piastres worth of merchandise which he promises to pay for in six months.

March 14, 1744. Receipt from Miguel Vidal for merchandise worth 450 piastres due by Buscaron to Sr. Voisin. Signed on March 15, 1744, by Miguel Vidal, before J. Martinez and Darby witnesses.

Original Letter in Spanish by Don Bernard de Buscaron (collated copy drawn April 14, 1747.)



29180. Jan. 16, 1746. Receipt by Sr. Rasteau to Don Miguel Bernard for eleven hundred and sixty-two piastres remitted by Sr. Gonzalles. Signed: Miguel Bernal.

29181. Certificate of Jean Mederic Moreau, Councillor of the King in the Island of Martinique that the signer of the the collated copy is Notary Royal, seal of island affixed. Signed: Moreau. Chappotin. Demedy Le Baron.

29182. Note for 1162 piastres payable at St. Pierre on Dec. 3, 1746. Signed: Darbeins.

April 5, 1747. Receipt for 1162 piastres from Mr. Miguel Bernal. Signed: P. Rasteau. Chantalou. Lenormand. Henry, notary.

April 5. 1½ pp. **Petition** to Mr. Le Normant, Commissioner of the Marine and Ordonnateur of the Province of Louisiana, by Jacques Laurens Tarascon for citation of Mr. Buscaron for the recovery of 326 piastres. Signed: J. Tarascon.

Jacques Laurens Tarascon sues Buscaron for 326 piastres. The paymaster of Santa Rosa Island evidently was in hot water during his stay in New Orleans

Order for citation signed by Lenormant.

April 6, 1747. Notice of citation served on Dn. Bernard Buscaron, paymaster at Santa Rosa Island now in New Orleans, where he has elected domicile. Signed: Lenormand.

April 6. 3 pp. **Petition** to Superior Council by Sr. Delille Dupard as fiduciary of Sr. Antoine Aufrere, acting under procuration of deceased Sr. D'Ausseville's heirs vs. Sr. Nicolas Godefroy Barbin, Attorney of Vacant Property, praying that Sr. Barbin's demands be denied. Sr. Barbin who has observed no formality towards Sr.

Aufrere cannot at this day refuse authentic proofs for the suit entered against the defendant. It is true that Sr. Aufrere has been sentenced to pay a sum for which Sr. Dupard has pledged himself to the D'Ausseville heirs. He has no cause to enter suit, since he had been revoked by a positive procuration. The defendant has no funds to remit to Sr. Barbin, those he received from Sr. Aufrere he will remit to Sr. de haut manoir when so requested, as per submission made in Registry, wherefore he prays that Sr. Barbin's case be thrown out of court and that he be sentenced to pay costs. Signed: Dlle Dupar.

Document stained and upper portion torn.

April 6. 9164.  
4308. 3¼ pp.

Marriage contract of Jean Louis Houmard and Cecile Mahyeux, both of Pointe Coupee and executed at that post.

**Marriage Contract** of Jean Louis Houmard and Cecile Mahyeux passed before Notary Royal at Pointe Coupee named ad hoc by Sr. Chanfret, sub-delegate. Signed: jan louis houmar. cecile Mayeux. Maieux. f. Remy temoin. Balquet. francois Mayeux

Et nous Potin, notaire.

April 6. 1 p.

Mathias Berthelot, armorer of the King at Mobile promises to pay Jean Baptiste Panioussa now in New Orleans one thousand livres on the day he reaches majority or in the event of his marriage. Conformably to the intention of Sr. Diron (Dartaguet Lieutenant of the King, Commandant at Mobile, the father of said Panioussa).

**Promise to Pay.** Mathias Berthelot, armorer of the King at Mobile, promises to pay in currency of this Colony, to Jean Baptiste Panioussa, now in New Orleans, the sum of 1000 livres on the day he reaches his majority, or in the event of his marriage, conformably to the intention of deceased Mr. Diron, Lieutenant of the King, Commandant at Mobile, his father, when he gave Berthelot's wife, sister of said Jean Baptiste Panioussa, the sum of 10,000 ls. as dowry, as carried in contract of marriage, without this present when paid, serving as a precedent to Jean Baptiste Panioussa for claiming any thing else, as in case of decease of said Panioussa it becomes null and void and therefore not transferable to any other. For payment of this legacy to the brother of his deceased wife Berthelot furnishes security on all his movables and immovables in the presence of witnesses.

Signed: "Marque ordinaire de Mathias + Berthelot."  
Doussin. Durand.

April 6. 1 p.

A duplicate of the above for 2000 livres in favor of Francoise Panioussa, a daughter of Diron.

**Promise to Pay.** Mathias Berthelot, armorer of the King at Mobile, promises to pay, in current money of the Colony, to Francoise Panioussa, at present in the Convent of the Ursuline Ladies, in New Orleans, the sum of two thousand livres, on the day

she attains her majority or on the day of her marriage, and this conformably with the intention of deceased Mr. Diron, former Lieutenant of the King, Commanding at Mobile, her father, when he endowed said Berthelot's deceased wife, sister of Francoise Panioussa, with the sum of ten thousand livres, which was paid, and carried in the Contract of Marriage without, however, this present once paid, may cause Berthelot prejudice or serve as a precedent to claim more, which obligation will be null in the event of death of the legatee before the time mentioned for the payment, and is not transferable to another person, for security of which he hypothecates his movables and immovables, this done by another hand as he does not

know how to write in the presence of witnesses. Signed: Marque Ordinaire de Mathais + Berthelot. Doussin. Durand.

Document in good condition.

#### April 6.

Letter by Berthelot to the Superior Council enclosing the above and asking that it be homologated by that body.

Excerpt from the Register of Sessions of the Superior Council covering the petition of Jean Baptiste and Francoise Panyouassa, minor children of Indian nationality of one Marianne, an Indian woman, mother of Berthelot's deceased wife and of the two petitioners.

This would indicate that Diron was the father of these children.

Letter written for Berthelot sending the obligations for the two children "whose case was brought before you," praying that it be homologated by the Council for his safety, expressing his gratitude. Letter bears no address, was written from Mobile.

July 1, 1747. Excerpt from Registers of the Sessions of the Superior Council. On petition of Jean Baptiste Panyouassa and Francoise Panyouassa, minor children and of Indian nationality, of one Marianne, an Indian woman, mother of Marguerite, Jean Baptiste and Francoise Panyouassa. Mr. Diron, Lieutenant of the King, Commandant at Mobile, in memory of services rendered him by the said deceased Marianne, gave to her daughter

Marguerite, deceased wife of Mathias Berthelot, the sum of 10,000 livres. As said Marguerite Berthelot died without issue, Mathias Berthelot, knowing that Jean Baptiste and Francoise are in want has favored them with a gift. To Jean Baptiste, he gives 2000 livres in current money of the Colony and to Francoise 1000 livres payable at the time of their establishment, it being well understood that in case of decease of one or the other, the donation becomes null and is not transferable. This was passed under private seal in the presence of witnesses and the aid of the Procureur General required as they have neither tutor nor under tutor, for the purpose of acceptance. On conclusions of the Attorney General the gifts were filed in Registry, and shall remain there until their delivery. The Council has authorized Jean Baptiste and Francoise Panyouassa to accept the donations made by Mathias Berthelot, their brother-in-law, on date of the 6th of last April.

Signed: By the Council. Henry, Greff.

July 1. By virtue of decree of April 6, 1747, the donations made by Mathias Berthelot to Jean Baptiste and Francoise Panyouassa, were filed in Registry of the Superior Council, in Vol. 51 and 52, by the Greffier of said Council.

Signed: Henry, Greff.

The same subject indicating that Marianne, a savagess was in the service of Commander Diron and that said minors lost their father and mother at a tender age and have no tutor or

July 1. Petition to Superior Council by Jean Baptiste and Francoise Panyouassa, minor children of deceased Francois Concha and of Marianne, a savagess, who was in the service of deceased Mr. Diron,



under tutor. They request the Procureur General to take the necessary proceedings to carry out the foregoing agreements.

Lieutenant of the King, Commandant at Mobile, said minors having lost their father and mother in tender age and no tutor nor under tutor having been appointed, which is not usual among the Indians, and Mathias Berthelot having

married their sister Marguerite, lately deceased, made them a donation, which they wish to accept, request the services of the Procureur General of the King for that purpose, wherefore they pray that said donations be filed in Registry of the Superior Council for execution according to their form and tenor, in consequence of which said donations will have the same force they would have if passed before Notaries with prescribed formalities.

Signed: baptiste françoise.

July 1. Order to communicate to the Procureur General of the King. Signed: Lenormant.

Raguet, Procureur General, consents and asks the court to allow the petitioner to accept the donation.

July 1. Consent for the King by the Procureur General that Jean Baptiste and Françoise Panyouassa be allowed to accept the donations made by Mathias Berthelot, on date of April 6, 1747, and

that the said donations be filed in Registry. Signed: Raguet.

Order of the Council accepting the same.

July 1. Following petition of Jean Baptiste and Françoise Panyouassa the Superior Council authorizes them to accept donations of Berthelot and orders that said donations be filed in Registry to be executed in their form and tenor. Signed: Lenormant.

April 7. 29191. **Procuration** in blank granted by Sr. Francois Caue, merchant of New Orleans, and his wife Françoise de Villemont, to collect all sums that may come to them from succession of Jean Danjean and Antoinette Caue, his wife. Signed: Caue. devillemont

Procuration by Sr. Francois Caue and his wife.

caüe. Lenormand. Chantalou. Henry, notary.

29193.

Statement of goods divided between the Caue's.

April 10. Statement of goods divided between Madam Dimoquel, Antoinette Caüe, Suzanne Caüe, wife of Sr. Francois Bigourd and Francois Caüe.

Signed: Caue.

April 7. 29186. **Procuration** in blank granted by Raymond Coquelin de la Thiolais, officer of the

Procuration by Raymond  
Coquelin de la Thiolais,  
officer of the Port of  
New Orleans.

Port in New Orleans, on account of his  
leaving for France. Signed: Tiolais  
Coquelin. Lenormand. Chantalou. Henry,  
notary.

April 7. 29183. **Report** in Registry by Mabrys Brosset of a  
fo. 1. 4311. 2½ pp. runaway slave named Cezard. Document  
charred, mutilated and crumbling.

Report of runaway slave.

Signed: Brosset. Certified by Henry,  
Greff.

April 7. 29188.  
ff E.

4313. 2½ pp.

Loan of 2000 livres by  
Jean Prat to Francois  
Caue.

**Loan** to Sr. Francois Caue and his wife by  
Jean Prat of 2000 livres which they  
promise to pay on the fifteenth day of  
next September without delay and with-  
out reduction, principal and interest, stip-  
ulating mortgage security on their mov-  
ables and immovables solidarily.

Signed: Caue. devillemont caue. Prat. Jahan. Henry,  
notary. Document in good condition.

April 8. 29208.  
2 pp.

Order of Council to sell a  
free negress into slavery  
to pay debts contracted  
by her. Amount not  
stated.

**Sale of a Free Negress** condemned by the  
Council, for reasons of debt to be reduced  
to slavery again and sold in the usual  
manner, her debts to be paid from the  
proceeds of her sale and moreover the  
costs, the surplus if any, to go to the  
Charity Hospital

April 8. 29208.

Advertisement of  
said sale.

April 9. Notice to public that follow-  
ing order of Judge Le Normant sale of  
negress Jeannette will take place on the  
11th inst., in the Registry of the Council,  
after compliance with formalities prescribed, in the presence  
of the Procureur General. Notice posted on the door of the  
Church, and one on the door of Superior Council by Sheriff  
Lenormand.

29210. 1½ pp.

Public sale of said  
negress. She brought  
1900 livres and was  
purchased by Layssard  
frere.

April 11. Sale and adjudication of  
Jeannette, a free negress, on petition of  
the Procureur General of the King, fol-  
lowing decree of Superior Council, on 8th  
instant. She was formerly a slave of Mr.  
de Coustilha, who freed her in his will

and was again reduced to slavery for thefts, and considerable  
debts, being sold for the profit of the Charity Hospital, after  
payment of debts. Sale took place before Councillor Jean Bap-  
tiste Raguet, in the Registry, and said negress adjudicated to  
Sr. Layssard for 1900 livres.

Signed: Maraffret Layssard frere. Lenormand. fleuriau.  
Raguet. (Document badly stained.)

April 8. 1½ pp.

Default entered against Dumanois in Rasteau's suit for 340 livres. Defendant cited for the next session of the Council. Bill for said debt for flour and sugar furnished by plaintiff.

**Excerpt** from Registers of the Superior Council. Judgment in default against Sr. Dumanoir who is sentenced to pay 340 livres to Sieur Rasteau. Signed: By the Council. Henry, Greff.

April 12. Sr. Dumanoir recited before Council at its next session, to be ordered to pay sum due, interest and costs. Signed: Lenormand.

April 8. Slip. Copy of bill dated Dec. 11, 1745, for 340 livres, certified March 16, 1747, by Mr. Rasteau, undersigned: Senet. The debt was for flour and sugar furnished by Sr. Paul Rasteau.

April 8. 29196.  
4315. 2½ pp.

Sale of plantation at Gentilly by Jean Prat, surgeon and botanist, to Morriset for 7000 livres.

**Sale of Plantation** at Gentilly, to Sr. Morriset by Jean Prat, Surgeon of the King and botanist of Louisiana, with consent of Mr. Joseph de Pontalba who had acquired it from Doctor Prat, for the sum of 7000 livres.

Signed: Morriset. Prat. pontalba. Chantalou. Lenormand. Henry, notary. Document charred and mutilated.

April 8. 3 pp.

Answer of Gerard Pery to suit of Capraise Mathieu.

**Defense** made to Superior Council in answer to demand of Sr. Capraise Mathieu for Sieur Gerard Pery by Sieur Antoine Aufrere, his father-in-law.

Signed: "Aufrere, pour pery mon gendre." Document in good condition.

April 8. 29199.  
4316. 3½ pp.

Marriage contract. Etienne Patin and Adrienne Randot executed at Pointe Coupee.

**Marriage Contract** passed at Pointe Coupee, before Mr. Tremaunay de Chanfret, subdelegate of Judge Salmon at said post, between Etienne Patin and Adrienne Randot, minor daughter of Jean Randot and of Francoise Srep, a native of Pointe

Coupee. Signed: Patin. Marque + d'Adrienne Randot. Marque + de Marie Pollon dit Randot. La salle. Antoine Patent. Cuvé. Aogda Chalellraux. Marianne rondot, Dehault. Potin, notaire. (Document so pale as to be barely legible.)

April 8. 8 pp.  
(Unnumbered)

Decisions rendered by the Superior Council. Full translation of document by Mr. G. Lugano, Archive Department, Louisiana State Museum.

**Session** of the Superior Council of April 8, 1747.

1. Present: Messrs. de Vaudreuil, Governor; Le Normant, First Councillor; de Benac, Town-Major; de Lafreniere, Raguet, Prat and le Breton, Councillors.



Rasteau vs. Tixerant.  
For plaintiff with right  
to seize defendant's  
property.

Cause between: Sieur Paul Rasteau, merchant of this city, plaintiff, and Sieur Louis Tixerant, officer, defendant. Considering the petition filed by Sr. Paul Rasteau, plaintiff; the order and citation dated 27th and 28th March last, respectively; the said petition representing:

That the plaintiff had obtained a judgment by the Council on March 4th condemning Sr. Tixerant, defendant, to pay him the sum of 7447 livres, 2 sols, 1 denier, in accordance with the terms of defendant's obligation dated January 31, 1746;

That petitioner was unable to obtain any payment despite all proceedings resorted to by virtue of said order; and concluding:

That petitioner be allowed to seize all movable property, all funds and effects that might be found to belong to Sr. Tixerant, and to dispose of same by judicial sale to the extent of said amount, plus interest, expenses and costs;

And having seen the said order of March 4th, the serving of same on March 8th, the notice served on the 13th of said month, and reiterated on the 23rd of same month by Le Normand, Huissier;

And having seen the aforesaid obligation dated January 31, 1746;

The Council allows Sieur Rasteau to cause a seizure to be made to the extent of what might be due him, with interest and costs.

Rasteau vs. Faucon  
Dumanoir.

Default and order to  
cite again.

2. Cause between: Sieur Paul Rasteau, plaintiff, and Sieur Jean Baptiste Faucon Dumanoir, defendant.

Considering the petition filed by Sr. Rasteau, the order and citation of March 18th and 23rd, respectively; the said petition concluding with the prayer:

That Sieur Dumanoir, defendant, be condemned to pay petitioner the sum of 340 livres for flour and sugar sold to him, according to voucher certified by plaintiff, on March 16th last, to be true;

And that defendant be condemned to pay also interest and costs;

The Council allowed first default against the said Sr. Dumanoir for failure to appear, and orders that he be cited again to appear at the first session of the Council. Costs reserved.

St. Martin Jaury Guibery  
vs. De Lisle Dupart, as  
tutor of Busson minors.

For plaintiff for 93  
livres.

3. Cause between: Sieur St. Martin Jaury Guibery, plaintiff, and Sieur Pierre de Lisle called Dupart, in the name and as tutor of the minor children of the late Noel Busson and of the late Anne Bertin, defendant.

Considering the petition filed by *Sieur St. Martin Jaury Guibery*, the order and citation of the first and second December last, respectively; and another citation of January 30th last;

The plaintiff representing:

That there was due him by the late *Noel Busson* the sum of ninety-three livres, according to a promissory note made to his order and dated May 7, 1728; and concluding with the prayer that *Sieur Dupart*, in his capacity of tutor and administrator of the property of the *Busson* succession, be condemned to pay him the said amount in cash ("en especes sonantes": in hard cash, money down, ready money), together with interest, expenses and costs;

And having seen the said promissory note of May 7, 1728;

And having heard the argument of the defendant, who declared that there remained no other property belonging to the said succession with the exception of some slaves, which have been hired out for the purpose of discharging a privileged debt of the succession to the *Compagnie des Indes*;

The Council condemns *Sieur Dupart*, in his said capacity, to pay *Sieur St. Martin* the aforesaid sum of ninety-three livres, set forth in the late *Busson's* promissory note dated May 7, 1728; the said payment, together with interest and costs, to be made from the earnings of the slaves of the succession, after the said *Compagnie des Indes* shall have been paid what is due to it by the *Busson* succession.

*Barbin*, as Attorney for Vacant Estates, vs. *de Lisle Dupart*, as surety for *Antoine Aufrere*, and vs. *Antoine Aufrere*.

The notes deposited in the registry are accepted as payment of 8681 livres 4 sols 8 deniers but condemn *Dupart* solidarily with *Aufrere* to see that the money is forthcoming under penalty of bodily arrest.

4. Cause between: *Sieur Barbin*, in his capacity of Attorney for Vacant Estates, and Attorney in fact of the heirs of the late *Dauseville*, plaintiff, and *Sieur de Lisle* called *Dupart*, as surety for *Sieur Antoine Aufrere*, defendant; and also *Sieur Antoine Aufrere*, former substituted Attorney in fact of *Sieur Gerard Pery*, who held the procuration of the heirs of the late *Sieur Raimond Damiault Dauseville*, and put in cause against said *Sr. Dupart*, plaintiff and defendant.

Considering the petition filed by *Sieur Nicolas Godefroy Barbin*, Attorney for Vacant Estates; the order and citation dated March 31st and April first, respectively; the said petition concluding with the prayer:

That *Sieur Dupart* be summoned before the Council and be made to admit that the said plaintiff has exhausted all means against the said *Sr. Aufrere*, and that therefore the orders rendered against *Sr. Aufrere* on March 5th, April 2nd, July 3rd and October 1st, 1746, shall be declared executory against

the said *Sieur Dupart*, surety; and that, accordingly, he should be condemned thereby to pay the plaintiff, for account of *Sieur Aufrere*, the sum of 19150 livres, 14 sols, in settlement of a portion of said account; to deliver the promissory notes of various parties, according to the statements, or the value of those notes which are missing; to deliver in kind the negro named *Pierrot*, and the three negroes and the cattle sold by private contract from time to time, or the amount which will please the Court to fix as the equivalent of the value of same; and to pay interest, expenses and costs;

Considering the said definitive order of the first of October last, by which the said *Sr. Aufrere* was condemned to pay to *Sieur Barbin*, in his aforestated capacity, the sum of 19150 livres, 14 sols, in settlement of the account, and furthermore to deliver in kind certain promissory notes and also the said negro named *Pierrot*, to deliver likewise the three negroes and the cattle sold by him from time to time, under penalty of the law, and by so doing to be duly and validly discharged;

Notice of said order having been served on October 10th by *Le Normand*, *Huissier*, and reiterated notice of said order having been served on October 21st;

And having seen the certificate of the *Greffier* of the Council attesting that the said *Sieur Aufrere* had deposited in the Registry a receipt of *Sieur Dupart* for the sum of 12781 livres, 6 sols, dated July 17th last;

And having seen the Act of Deposit made in the Registry by *Sr. Aufrere*, on October 22nd last, of certain promissory notes endorsed to the late *Dauseville*, aggregating 18681 livres, 4 sols in amount;

And having read the answer filed by *Sieur Dupart* on the 6th of the current month;

And having heard all the parties;

And having heard the Conclusions of the *Procureur General* of the King:

The Council orders that all the said promissory notes deposited in the Registry be delivered to *Sieur Barbin*, so that he might seek payment thereof;

And condemns *Sieur Dupart*, in solido, as surety of *Sieur Aufrere*, to the full and entire execution of the aforesaid order of October first, on the penalty of law, including the penalty of being arrested for debt;

And condemns *Sieur Aufrere* and *Sieur Dupart*, in solido, to pay all costs.

Varrain vs. Cheval.  
For plaintiff for 107  
livres 20 sols.

5. Cause between: *Sieur Jean Baptiste Varrain*, Captain of the brigantine "*La Marianne*", of *La Rochelle*, at present in this city, plaintiff, and *Sieur Louis Cheval*, a resident of this city, defendant.



Considering the petition filed by the plaintiff, the order and citation of March 17th last; the said petition concluding with the prayer:

That plaintiff be allowed to have defendant summoned before the Council, at its first session, and that the said defendant be condemned to pay him the sum of one hundred seven livres and ten sols for one case of soap sold by plaintiff to defendant, according to statement certified to be true by plaintiff; and that defendant be condemned to pay also all costs;

Having seen the statement certified to by the plaintiff and dated March 17th last;

The parties having been heard:

The Council condemned and does condemn *Sieur Cheval* to pay to *Sieur Varrain* the said sum of 107 livres, 10 sols, for the case of soap in question, and costs.

*Dauphin vs. Chauvin.*

Considering the oath taken by default that he promised to pay for the rice only on arrival of *Sr. Cartier*, the suit is dismissed with costs.

6. Cause between: *Joseph Dauphin*, plaintiff, and *Jacques Chauvin*, merchant of this city, defendant.

Considering the petition filed by said *Dauphin*, the order and citation dated 29th and 31st March, respectively; the said petition representing:

That petitioner had agreed with *Sieur Chauvin* to deliver him all the clean rice he could get, at the rate of 17 livres, 10 sols per 100 pounds, in accordance with their contract under private signature, dated August 7th last;

That petitioner received payment for 28160 pounds of rice; and that payment for 894 pounds is still due in the sum of 156 livres, 9 sols, which amount *Sieur Chauvin* refuses to pay; and concluding:

That defendant be condemned to pay the foregoing sum of 156 livres, 9 sols, besides expenses and costs;

And having seen the said contract under private signature of August 7th last, by which *Sieur Dauphin* bound himself to furnish *Sieur Chauvin*, within the term of six weeks, all the clean rice—good and marketable merchandise—he would be able to procure;

And having seen a statement, bearing no signature whatever, and showing only: "Rice furnished by *Sr. Dauphin* 894 pounds on November 28th last";

And having heard the defendant, who declared that he paid the plaintiff for all the rice furnished during the term of the contract, that is, within six weeks; that, as to the 894 pounds delivered in November last, he thought this merchandise was furnished to *Sieur Quartier*, therefore he does not believe that he has to pay for it, and wants to wait until *Sieur Quartier* returns to the city;

And having heard the parties, after Sieur Chauvin stated, under oath, that he never promised to pay for the rice in question, which was delivered to Sieur Quartier:

The Council reserved to Sieur Dauphin the right to proceed against Sieur Quartier, as he might see fit; and condemned Sieur Dauphin to pay costs.

*Bellome vs. Caus.*  
Case dismissed.

7. Cause between: Gaspard Bellomé, tailor, plaintiff, and François Caüe, defendant.

Considering the petition filed by the plaintiff, the order and citation dated March 28th and April 3rd, respectively; the said petition concluding:

That petitioner be allowed to have Sieur Caüe summoned at the first session of the Council to be condemned to produce whatsoever obligations made out by petitioner or his late wife, which obligations petitioner is ready to pay, if evidence of indebtedness is furnished;

That petitioner for several years has ceased to work for Sieur Caüe, who now claims that petitioner is indebted to him on account of certain memoranda of indebtedness;

Having heard Sieur Caüe, who declared that he furnished some merchandise to the plaintiff; that he used to make payments, on account, for work done by plaintiff for him; and that in conclusion he thinks that they do not owe each other anything, or, at the most, the sum of 30 livres, still owed him by Bellomé, in full settlement of their accounts;

Having heard the parties:

The Council dismissed the suit. Each party to pay his own costs.

*Bodin, acting for Caus  
vs. Tesson, as tutor of  
Caron minor.*

Defendant is ordered to  
pay the claim to the  
Procureur General.

8. Cause between: Sieur Jacques Bodin, pilot on the King's vessel "Le Chameau", acting under power of attorney of Sr. Bernard Caus, pilot at the port of Rochefort, plaintiff, and Sieur George Tesson, acting in the name and as tutor of the minor son of the late Jean Caron, defendant.

Considering the petition filed by Jacques Bodin, in his said capacity, the order and citation dated 14th and 15th March last, respectively; the said petition representing:

That petitioner held the power of attorney of Sieur Causse, to whom there was due by the succession of the late Jean Caron: first, a draft for the sum of 1200 livres drawn on the Royal Treasury of the Marine in Paris; secondly, the sum of 487 livres, 5 sols;

That the said amounts are in the hands of Sieur Tesson, in charge of said succession; and concluding:

That petitioner be allowed to have the defendant cited at the first session of the Council, and that he be condemned to deliver to him the aforesaid draft for 1200 livres and the said sum of 487 livres, 5 sols; and that the said succession be furthermore condemned to pay all expenses and costs;

Having seen the said act of procuration executed on April 25, 1746, and duly legalized;

Having heard the conclusions of the Procureur General of the King:

The Council condemns Sieur George Tesson, in his said capacity, to pay the amounts above specified to the plaintiff, who shall grant valid release. Costs to be borne by the said succession.

Mathieu, acting for Descaires, Sr. vs. Pery, as testamentary executor of Caliste Descaires, Jr.

Council orders Pery to appear before it in person.

9. Cause between: Copraise Mathieu, acting for Sieur Descaires, Sr., plaintiff, and Gerard Pery, testamentary executor of late Caliste Descaire, Jr., and afterwards attorney in fact of Sieur Descaire, Sr., defendant. Sieur Pery being represented by Sieur Antoine Aufrere, his father-in-law, here present.

Considering the petition filed by Sieur Mathieu, the order and citation of March 24th; said petition concluding:

That Sieur Pery be summoned before the Council to be condemned, under penalty of arrest, to deliver at once and without delay the sum of 9083 livres, 10 sols, without prejudice to other claims that might fall due—and also to deliver two slaves named Baptiste and Marianne, the said deliveries to be made subject to the offer of said Mathieu to furnish said Pery with good and sufficient surety, while waiting for fuller and more complete power of attorney;

The Council, before rendering its decision, orders that Sieur Pery appear in person at the first session of the Court. Costs reserved.

April 12.

Notices of citation served on Sr. Gerard Pery, residing at home of Sr. Aufrere, and on Sr. Capraise Mathieu, residing at plantation of Sr. Harang, two leagues distant from New Orleans, to appear in person before Superior Council to answer on demand of Sr. Capraise Mathieu. Signed: Lenormard.

Petition to Council by Jean Baptiste Champagne for permission to exchange real property in New Orleans for a plantation in Pointe Coupee. The Council orders the premises to be examined by Cantrelle and Judice, planters, carpenters and builders, who report the house at

10. Jean Baptiste Champagne called Champagne petitioning:

Considering the petition filed by said Champagne, who represented:

That he exchanged two lots of ground situated on Conti street in this city for a plantation situated at Pointe Coupée, as it is more fully set forth in an act passed



the corner of Conti Street to be in such a state of delapidation it is not worth repairing.

Order rendered permitting exchange.

before Sieur Potin, acting Notary at the said Post of Pointe Coupée;

That petitioner is in charge of his minor children by his late wife, and therefore he cannot dispose of said property without due authorization; and concluding:

That it may please the Council to authorize him to execute the said exchange, as this will be to the best interest of the minors;

Considering the order written beneath the aforesaid petition by Mr. Le Normant on March 19th last;

Having heard the conclusions of the Procureur General of the King;

\* "des dits terrains et maison"—it is stated here, while above there is only reference to: "deux terrains."

Having seen the procès-verbal of March 20th drafted by two experts and concerning the condition of the said two lots of ground and residence\* thereon;

Having heard the definitive conclusions of the Procureur General of the King, who signified his consent for the said exchange of the two lots of ground for the said plantation, which shall carry the same mortgage for the protection of the minors, and who advised that the aforesaid contract executed at Pointe Coupée be approved;

\* "entant que Besoin est."

The Council gives its approval to the exchange in question, to the extent that it may be needed\*, in accordance with the recommendation of the Procureur General of the King.

(Document unsigned; in fair state of preservation.)

There is also in the files a summary of the foregoing judgment of the Council.

April 10. 29205. **Sale of a negro, named Bara, piece d'Inde** fo. 1. 4318. 1½ pp. by Sr. Francois Hery, called Duplanty to

Sale of a negro named Bara (piece d'Inde) by Francois Henry, called Duplanty to William Bienvenu for 1800 livres.

Guillaume Bienvenu for the sum of 1800 livres. Signed: D. Hery. Chantalou. Lenormand. Henry, notary. Document in good condition.

April 10. 29207. **Affidavit (Declaration) made in Registry by** fo. 1. 4319. Nicolas Judice accompanied by Louis

Nicholas Judice and Louis Judice, his nephew and ward complain of an assault on the latter by a negress of Sieur Lathiolais.

Judice his nephew and ward, of an assault made on Louis Judice by the negress of Sieur Lathiolais. Signed: Louis Judice. nicolas Judice. Certified by Henry, Greff.

April 10. 29204.  
fo. 1. 4317. 1 p.

George Tesson deposits a pair of pistols in the registry brought to his house and delivered to his negress.

**Declaration** made in Registry of the Council by George Tesson of a pair of pistols being brought to his house and handed to his negress. Having no information concerning these arms. he makes the above declaration in case they may have been stolen. Signed: Tesson. Henry, Greff.

April 11. 29212.  
4321. fo. 1.  
1½ pp.

Francois Henry called Duplanty sells to Sr. Tisserant de Moncharvaux, commander of the Post of Arkansas "all his pretensions in that post and all his interest in a dissolved partnership with Louis Giscart, called Benoit.

**Sale** of Francois Henry, called Duplanty, of all pretensions he may have in the post of Arkansas, to Sr. Tisserant de Moncharvaux, Commandant of the Post, and also a partnership he had with Louis Giscart, called Benoit, which partnership is dissolved, and as he does not know the amount of tallow and other things due him, he transfers all his rights and claims to the said Moncharvaux.

Signed: Tisserant De Moncharvaux.  
f. hery. Chantalou. Henry, notary.

April 12. 28521.  
1½ pp.

Guillaume Bienvenu and his wife Marianne Lepine make a donation to each.

**Act** passed in Chantalou's office, before Chantalou and Marin Lenormand as witnesses of mutual donation made to each other by Guillaume Bienvenu and his wife Marianne Lepine of all the movable and immovable property possessed by each in favor of the survivor, the said

couple declaring that they did not know how to write nor sign. Signed: Chantalou. Lenormand.

May 6, 1747. (On margin of above document) Demand by the Procureur General of the King that this act of donation be read before the Council at its next sitting for publication and that it be filed in the Registry of the Council. Signed: fleuriau. Document in good condition.

April 12. 4 pp.

Morisset vs. Buscaron. Decision (apparently by Le Normant alone) refusing jurisdiction over the suit of Morisset against Buscaron paymaster at Pensacola and referring plaintiff to the Vice-Roy of Mexico. The summary by our translator does not enable us to understand this decision, but it was probably put on the ground that the "balinder" was a vessel of Spain and that Buscaron was an officer of that Kingdom.

**Excerpt** from the Registers of the Superior Council, containing orders of Mr. Le Normant, Commissioner General of the Marine, Ordonnateur and First Councillor.

Between Sr. Louis Morisset, wholesale merchant of New Orleans and Don Bernard Buscaron, Commissioner Paymaster of Pensacola, defendant: Following petition of Sr. Morisset, notice of which was served on Don Bernard Buscaron, formerly paymaster at Santa Rosa Island, for payment of the sum of 1204 piastres, certified by letters and memorandum of Don Jarsa y Ascana, Commandant at Pensacola, who sent the vouchers to the

Vice-Roy of Mexico. As Don Buscaron is leaving for New Mexico without furnishing any security Morisset demands seizure of all that he may own in the balinder in which he left until payment of 1204 ps. 2 r. with interest and costs and even bodily apprehension in default of said payment.

Council orders Mr. Morisset to have recourse before His Excellency the Vice-Roy of Mexico.

**Voisin vs. Buscaron.**  
Decision permitting plaintiff to seize any property of the defendant in New Orleans.

The remark made above applies to this judgment. A distinction seems to have been made between defendant's property on the "balinder" and defendant's property in the City.

Another claim by Sr. Pierre Voisin of New Orleans against Don Bernard Buscaron for 450 piastres for merchandise delivered on order of his cousin Michel Vital (Vidal) and not being able to obtain from said Buscaron even a promise, Voisin, prays for seizure of all he owns in the balinder and elsewhere, producing therefor receipt of Vidal of March 15, 1744 and letter of Don Bernard Buscaron of March 10, 1744. Council orders seizure and sale of Buscaron's effects in this city, if any, until payment of 450 piastres, interest and costs.

**April 12.**

Translation of a note (from what language not stated) showing the consideration stated therein.

**Translation** of a note signed: Tarascon and Durantay. A receipt for 462 piastres, 2½ reaux, on account of what is still due to myself and Mr. Morisset in which is included the price of a negress valued 300 ps., which was signed Dec. 12, 1745. Certification of correct translation by J. B. Garie, April 12, 1747.

**April 12. 2¼ pp.**

**Petition by Swiss officers and Lassard Bros.** for seizure of effects of Bertrand on the "balinder St. Michel". It is alleged that Bertrand was responsible because he permitted one Vincent to embark furtively on the "balinder St. Michel" owned by Bertrand and Vincent had combined with the said owner of that vessel to hide fugitives from justice. From this point of view it is an action in tort to make Bertrand responsible for the debts of Vincent.

**Petition** to Superior Council by Gregoire Volant, Commandant of Swiss troops, Dietrich, Captain of Swiss troops and Jean Etienne Layssard, freres, acting under procuration of Sr. Bonnetterre, praying for seizure of all effects left here by Sr. Vincent, who came here from Martinique in 1743 on the schooner Elizabeth, as the Sr. Vincent embarked furtively on the balinder the St. Michel which Sr. Bertrand seemed to own, and on which said Bertrand hid those who were evading the law, which renders him responsible for civil damages which he caused, wherefore they pray to be permitted to seize all the effects, notes and merchandise,

wherever they may be, belonging to Sr. Bertrand until full payment of what is due by Sr. Vincent.



Signed: Volant. Diederich. Layssard freres.

Petition granted, to be done as requested before Councillor Raguet. Signed: Lenormant.

\* Should be  
Condamina.

April 13. Notice served on Sr. Coatima\* who was on Bertrand's boat at the time of the evasion to appear before the Superior Council to testify to the truth.

Signed: Lenormand.

Lower part of document ragged and torn.

April 12.  
No. 1091. 3½ pp.

Approved Dreux.  
Judgments rendered by  
Superior Council.

Summary of session of the Council held April 12, 1747, before Mr. Le Normant, Councillor of the King, Commissioner General and Ordonnateur in the Superior Council.

Judgments rendered in following cases:

Morriset vs. Buscaron.  
Dismissed. See preceding entry of even date.

1. Between Louis Morisset, plaintiff, vs. Don Bernard Buscaron, Paymaster at Pensacola, defendant: Council orders case to be brought to Commandant of

Pensacola, that he may submit it to the Vice-Roy of Mexico for recovery of 1153 piastres, discharging him of payment of 42 ps. remaining on said memoranda. Costs on Buscaron.

Voisin vs. Buscaron.  
For plaintiff. See preceding entry of same date.

2. Between Sr. Voisin, plaintiff, vs. Dn. Bernard Buscaron, defendant: Buscaron ordered to pay Voisin the sum of 450 ps. interest thereon and costs, to be compelled

to, if necessary by seizure of his movables, if any are to be found in this city. Costs on Dn. Buscaron.

Jacques Lorain, called Tarascon vs. Buscaron. Certificate given plaintiff of defendant's acknowledgment of debt for 303 pesos for use before the Vice Roy of Mexico.

3. Jacques Lorain, called Tarascon, plaintiff, represented by J. Baptiste Garigue, plaintiff, vs. Dn. Bernard Buscaron, defendant: Certification given Tarascon of acknowledgment made before Council by Buscaron that he owes

303 ps. instead of 320 ps. and as the note was sent to Mexico, Council orders Tarascon to sue before the Vice-Roy of Mexico to obtain payment without costs.

Signed: Lenormant.

April 12. 29216.  
fo. 1. 4323. 1 p.

Lease for three years of two lots on Royal Street by Sr. Claude Trenaunay Chanfret and his wife, Julie Moreau, widow of Jacques Ozenne to Sr.

Rent Lease granted by Sr. Claude Trenaunay Chanfret and his wife, Julie Moreau, widow of Jacques Ozenne, of two lots situated in Royal Street, adjacent to Sr. de Chamilly on one side and to Sr. Caüe on the other, to Sr. Francois de

Francois de Caue and his wife.  
As usual the translator used the word "lots" for "house and lots" and also fails to give the rental.

Caue and his wife. Lease is signed for three years.

Signed: Caue. Trenaunay. Henry, Greff.

29217.

The parties on both sides in this lease obligate themselves to send the ratification of this lease to Pointe Coupee, in the presence of Srs. Chantalou and Lenormand as witnesses. Signed: trenaunay. Caue. Chantalou. Lenormand.

Right margin torn, document otherwise in good condition.

April 12. 29218.

fo. 1. 4334.

1½ pp.

A certified translation of a note for 701 piastres written in Spanish and signed by J. F. Hernandez in favor of Patricio Florencio at Vera Cruz.

Translation of a note in Spanish, made by Jean Francois Hernandez in favor of Jean Gonzales, promising to pay to Patricio Florencio at Vera Cruz and in his absence to the one holding his procuration, 701 piastres borrowed from Jean Gonzales, or to Gonzales, if he come back to New Orleans from Campeche, in testimony of which "I give this present at New Orleans April 14, 1746."

Signed: Juan Francisco Hernandez.

Moreover he acknowledges having received nine piastres which brings the debt to 710 piastres which is written in figures in the margin. Nouguez. Gonzalle and Henry, Greff. Certify the above translation as correct.

April 12. 29220.

4325. 1½ pp.

Sale of plantation at Pointe Coupee by Nicolas de la Cour and wife to Andre Rambin, called La Couture for sixty one piastres.

Sale of plantation, at Pointe Coupee, before Potin, acting as notary, by Nicolas de La Cour and his wife, Perine Brette, to Andre Rambin, called La Couture for the sum of sixty-one piastres. Signed: Rambin. Mark of + Sr. Nicolas de la Cour. Mark of + Perine Brette, fem de Nicolas. Balquet temoin. Sarazin temoin. And we Potin, notary. Document badly stained.

April 13.

No. 1090. fo. 1.

2½ pp.

See: April 12, No. 1. Inquiry before Councillor Raguet in the case of Volant, Diederich and Layssard Bros. against Vincent.

Inquiry before Councillor Raguet concerning one Vincent on petition of Srs. Volant, Diederich and Layssard Bros. acting under procuration of Sr. Bonnetterre. Signed: Raguet, condamina. Henry, Greff.

April 14.

29222. fo. 1.

4326. 3 pp.

Procuration granted to Sr. Francois Jahan by Sr. Charles Brosillon to represent him and act in his name in settling the inher-

Procuration from Brosillon to Jahan to settle an inheritance in the City of Tours, France.

itance which has accrued to said Brosillon in the city of Tours. Signed: charle brossillon. Lenormand. Chantalou. Henry, notary.

April 14. 29227. fo. 1. 4327. 1 p.

Procuration by Jacques Roman to Francois Jahan to collect and receive from the Messrs. Paris the sums they may grant him for settlement of his account for services on the LaBuisson concession. He refrains from granting any power of suit, leaving it entirely to the liberality of the Messrs. Paris whom he considers as his protectors.

On the reverse of the procuration Roman itemizes his account as at credit 3351 livres 7 sols 6 deniers and at debit 942 livres 7 sols 6 deniers, leaving a balance due him of 2409 livres. The account is closed as of November 30, 1733.

**Procuration** granted Sr. Francois Jahan who is about to leave for Paris (France) by Sr. Jacques Roman, settler of this Colony at the parish of Des Allemand to collect and receive from Mssrs. Paris the sums which they may grant the said constituent for settlement of account and as owners of the Le Buisson concession, without however, the said Jahan being able to prosecute before the law or use compulsion, leaving the whole to the kindness, intentions and favor of Mssrs. de Paris, whom he considers as his protectors, praying that they consider the said attorney as depositary of his good will, as he is to return to this Colony and that he has confidence in him. Signed: Roman. Lenormand. Chantalou. Henry, notary.

29225. 2 pp.

On reverse: Account rendered by Sr. Roman former Comptroller of Le Buisson Concession to the parties interested therein from Feb. 20th, 1727, to October 15th of the same year.

Certification of above account amounting to his debit to the sum of nine hundred and forty-two livres seven sols and six deniers and to my credit to the sum of 3351 ls. 7 ss. 6 d., those interested in said concession owing to said Roman the sum of 2409 lv. Nove 30, 1733. Signed: Roman.

April 12. 21¼ pp.

Daniel Hubert called La Croix sues Clermont for 400 livres in specie. He asks interest because his debtor paid another New Orleans creditor interest to escape seizure of a few thousand pounds of tallow which Clermont shipped from Arkansas.

**Petition** to Mr. Le Normant by Daniel Hubert dt La Croix, stating that he is bearer of a note signed Clermont, for the sum of 400 livres in specie which the said Clermont is not able to pay. Rolland, wig-maker of New Orleans also sent an obligation to Arkansas at the time of his departure which said Clermont immediately paid. He profited of a safe occasion

to send a few thousand pounds of tallow which said Rolland would have seized here. Moreover the said Rolland exacted interest for the delay of payment which was equal to the principal for which reason petitioner prays that said Rolland be cited to be sentenced by the Council at its next session to pay the amount of the note to petitioner and moreover interest the



equivalent of what he exacts from Sr. Clermont. Signed: Daniel Hubert.

Order for citation signed by Lenormant.

April 26. Notice of citation before Council at its next session served on Sr. Rolland on petition of Daniel Hubert de la Croix, to answer on the debt, the sheriff leaving copy of petition as well as notice of citation so that he may not plead ignorance.

(Signed): Lenormand.

April 15. 2 pp. **Petition** to Mr. the Marquis de Vaudreuil Governor and Le Normant, Commissioner General and Ordonnateur of the Province of Louisiana, by Sr. Lange, officer of militia for citation of Sr. Roman to return to him the area of cleared land which comes to him according to Engineer Broutin's surveying. Signed: Lange.

April 15. Order to Sr. Roman to appear before Council within eight days. (Signed): Lenormant. Notice of citation served same day on Sr. Roman on petition of Sr. Lange to answer on claim of Sr. Lange.

(Signed): Lenormand.

April 17. 29228. **Receipt** to Augustin Chantalou by Captain fo. 1. 4328. 2½ pp.

Captain Le Verrier receipts to Augustin Chantalou for 5876 livres paid by latter for account of Jean Francois Mathieu whose procuration is held by Le Verrier.

Le Verrier for the sum of five thousand eight hundred and seventy-six livres paid by Chantalou for Jean Francois Mathieu whose procuration Le Verrier held.

Signed: Leverrier. Cantrelle. Chantalou. Lenormand. Henry, notary. Document in good condition.

April 17. 29238. 4329.

Chevalier de Membrede reports death of a negress owned by Estate of Pellerin whose widow the Chevallier married. The negress was about 48 years old and died of an abscess in the chest.

**Report** by Chevalier de Membrede of death of a negress owned by succession of deceased Pellerin, whose widow he married. The negress was aged about 48 years and died of an abscess in the chest.

Signed: Henry, Greff.

Document in good condition.

April 19. 29241. fo. 1. 4330. 1 p.

Jacques Baudin pilot on the King's ship receipts for 137 livres to George Tesson tutor of Caron's minor daughter.

**Receipt** to George Tesson, as tutor of deceased Caron's minor daughter, for payment of 137 livres paid to Jacques Baudin, pilot on the King's ship, acting under procuration of Bernard Causse, following decree of Superior Council. Signed: Baudon. Lenormand. Chantalou.

Henry, notary. Document in good condition.

April 19.

1. No. 2.

1 p.

De Benac, major of New Orleans, petitions De Vaudreuil, Governor of Louisiana for investigation of the assault by one Rene Meslier, soldier in Saurel's Company on Sargent Le Suain de la Plume of Mr. de Marel's Company, and asks for council of war to try the accused, which the Governor orders to be held by de Bellisle and De Benac.

The accused is tried and sentenced to the galleys for life for having dared to raise his hand against a Sergeant of the King.

**Petition** to the Marquis de Vaudreuil, Governor of Louisiana by De Benac, Major of the Place, for investigation of the assault made by one Rene Meslier, a soldier of Mr. Saurel's company on Sargent Le Suain de la Plume of Mr. de Marel's company and afterwards to convene a Council of war to pass on the case. Signed: De Benac.

April 19. Order by Gov. de Vaudreuil for trial of Meslier before Mr. de Belille and De Benac. Signed: Vaudreuil.

April 22. 1 p. No. 1. Sentence of Rene Meslier, after trial, to the galleys for life for having dared to raise his hand against a sergeant of the King. Signed: De Benac.

See the proceeding of the Court Martial

April 20, this index.

April 19. fo. 1.

29251. 2½ pp.

Procuration by Therese Drillant, widow of Francois Gallot to Sieur Chauvin to attend to the affairs of the deceased in Paris and to collect, settle and act in the best interest of her minor children of the marriage with the deceased.

Paris, to collect, sell and take cognizance of all that concerns his estate, to settle amicably, to have accounts rendered, to oppose, protest and in general act in the best interest of the minors, this procuration to endure until revocation of same. Signed: veuve gallot. Chauvin. Lenormand. Chantalou. Henry, notary.

**Procuration** by Therese Drillant, widow of Sr. Francois Gallot, whilst living employed in the offices of the Company of the Indies, and merchant in this Colony, granted to Sr. Chauvin another merchant of the Colony, subrogé tutor of minor children of deceased Gallot, who advised the said Widow and also gave his procuration as tutor, to Sr. Nougues in order to see to affairs of deceased Gallot in

April 19. fo. 1.

29249. 4333.

2½ pp.

Similar procuration by the widow Gallot to Mouguez, subroge tuteur to above minors and to Chauvin.

**Procuration** granted to Sr. Nougues (Nouguez) by Widow Gallot, mother and tutrix of minor heirs of Sr. Gallot and by Sr. Chauvin, a merchant of this Colony, their subrogate tutor to see to all affairs of deceased Sr. Gallot during his stay in Paris. (Duplicate of previous procuration of same date (29251)).

April 20. 29247.

fo. 1. 4332.

1½ pp.

**Sale** of Francoise Plassan, widow of Nicolas Mayeux, now wife of Jean Baptiste Prevost, but separate from him in property,

Francoise Plassan, widow of Nicolas Mayeux, now wife of Jean Baptiste Prevost, but separate in property from him sells a mulatress to Charles LeSassier for 3000 livres payable in piastres of 5 livres each.

LeSassier transfers the said mulatress to Jacesly for the same amount.

to Mr. Charles Le Sassier, of a mulatress for the sum of 3000 livres payable in piastres of five livres each.

Signed: plassan prevost. Veu Prevost. Chantalou. Lenormand.

Transfer of said mulatress to Mr. Jacesly for the sum of 3000 livres by Le Sassier. Signed: Lesassier.

April 20. 29246.  
fo. 1. 4331. 1 p.

Jean Joseph Delfau de Pontalba, Lieutenant in the troops of the Marine, signs an obligation for 2000 piastres of five livres each which he promises to pay in April, 1748. The name of the payee not given.

**Obligation** of Jean Joseph Delfau de Pontalba, Lieutenant in the troops of the Marine for two thousand piastres of five livres, which he promises to pay in the month of April of the coming year. Signed: pontalba. Lenormand. Chantalou. Henry, notary.

April 20.  
No. 1092. 13 pp.

Trial of Rene Mercier before court martial. See entry of 19th April, this index.

The proceeding was conducted according to the familiar form for criminal prosecution.

The judgment (translated in full) is a terrible example of the harsh penalties of that period.

The defendant was ordered to be degraded as a soldier before a general assembly of the garrison to the beat of the drum and thereafter to serve in the galleys for life. His offense as previously noted was that he "raised his hand" to the sergeant.

See: 4-19-47. No. 2; 4-22-47. 4-20-47, 1092; 4-20-47, 1093; 4-20-47, 1094; 4-21-47, 1095; 4-21-47, 1096; 4-21-47, 1097.

**Inquiry** before Mr. Francois Simars de Belille, Adjutant of the troops of the Colony, of Chantalou, Greffier; against Rene Mercier, soldier of Mr. de Gauvrit's Company who is accused of revolt against a sergeant of the Company called Servin of the company of Mr. de Marest, said Mercier having been apprehended and detained in the prisons of this city, following order of Mr. de Vaudreuil, Governor of the Province; and of Mr. de Benac, Major of New Orleans.

The first witness appearing was a man of four feet, with a wrinkled face and blue eyes, a hawked nose, his mouth sunk in, with black hair, beard and eyebrows. After answering the usual question, as to age, religion and relationship to the accused and answers, he said that his name was Pierre Lefort who testified as to the arrest and signed. He was followed by Jacques Fondon, Jean Baptiste Roussy,

(5th page); Charles La Ribardiere, (6th page), Pierre Servain called La Plume, (9th page), and Pierre Lefort, called Enspecade, (10th page).

No. 1003. 3 pp.

April 20. Reexamination of witnesses: Fondon, called Sans Remission; Jean Roussy, called Bon Baptiste; Charles Le Ribardiere, called Champagne; Pierre Servain, called La Plume; and Lefort, called Capucin. Fondon, Servain and Lefort signed, the others



declared that they could not write nor sign. Bellile and Henry, Greffier countersigned. Document stained and faded.

No. 1094. 8 pp.

April 20. Interrogation of Rene Mercier, soldier of Mr. de Gauvrit's Company, aged 57 years, a cobbler by trade. He did not sign, not knowing how to write. Mark + of Rene Mercier. Bellile. Henry, Greff. Document stained.

No. 1095. 6 pp.

Second interrogation of Rene Mercier owing to his vague answers and that his mind seemed to wander. Signed: Mark + of Rene Mercier. Bellile. Henry, Greff.

No. 1096. 8 pp.

April 21. Confrontation of Rene Mercier, soldier of Mr. de Gauvrit's Company Fondon, soldier of Mr. de Marest's Company.

Signed: Mark of + Rene Mercier. Bellile. Poussedoire.

Confrontation with Jean Baptiste Roussy and Rene Mercier; with Charles La Ribaudiere; with Pierre Servin; and with Pierre Lefort, called Capucin. The accused was notified that he would pass before a court martial and reconducted to prison.

Signed: Lefort. Mark of + Rene Mercier.

No. 1097.

1½ pp.

Complete translation of the judgment of the Court Martial against against the soldier.

April 22. Judgment rendered in case of Rene Mercier. The Council of War presided over by Mr. the Marquis de Vaudreuil, Governor of the Province of Louisiana, composed of Monsieur Le Normant, Commissioner General of the Marine, Ordonnateur of the Province, of Mr. de Noyan, Lieutenant of the King; of MM. de Gauvrit, de Membrede, Maret, de Grandpre, Le Verrier, de la tour, captain of the troops of the Colony and Mr. the Major acting as Procureur of the King, assisted by the Greffier. After having seen the complaint of Servin, sergeant, the petition of Mr. de Benac, major; the order below the inquiry, interrogation, reexamination, confrontation with the conclusions of Mr. de Benac, major, having heard the said Rene Mercier, the accused on the witness stand, the whole well considered, the Council of War condemns the said Rene Mercier, soldier of Mr. de Gauvrit's Company to the galleys for life after having previously been degraded after having for that purpose beaten the general. Given at the Government Hotel at New Orleans, on the twenty-second of April, one thousand seven hundred and forty-seven, at ten o'clock in the morning.

Signed: Vaudreuil. Lenormant. Noyan. De Gauvrit. demembrede. Maret. Grandpre. Laverrier. Maret Delatour. Document stained and faded with ragged margins.

**April 21. 29255.**  
fo. 1. 4334.  
1 1/4 pp.

Sale of a savage slave  
of the Chickasaw nation  
by d'Erneville to Jean  
Trudeau for 1000 livres.

**Sale** of a savage slave of the Chickasaw  
nation by Mr. d'Erneville to Jean Trudeau  
for the sum of 1000 livres.

Signed: Trudeau, Lenormand. Chan-  
talou. Henry, notary. Document charred  
and perforated.

**April 22. 3 pp.**

Answer of Jacques Roman  
to suit of Lange. (See  
entry this Index, April  
15th). Roman contends  
that Lange has been  
"pillaging" the timber  
and using the land. He  
asks for an injunction  
against him.

**Petition** addressed to the Superior Council  
by Jacques Roman in answer to Sieur  
Lange, stating that since he, Roman, had  
bought the plantation, Sr. Lange was con-  
tinually pillaging his cypress swamp from  
which he drew twelve thousand stakes  
which he has used in his buildings; that  
the plaintiff has warned him several  
times and he has always pretended to

ignore the limits which were marked by Mr. Broutin, the King's  
engineer. The said Lange continues to work on land of plain-  
tiff and has even planted indigo on it and that Lange took  
possession of what had been sowed by plaintiff, who is willing  
to sell him his plantation, without prejudice to his rights rec-  
ognized by Mr. Broutin's surveying. Roman begs the Council  
to order said Lange not to work any longer on said Roman's  
land nor to take wood therefrom and sentence said Lange to  
costs. Signed: Roman.

**April 22.** Notice of citation served on Sr. Lange at his  
domicile to appear before Council at its next session to answer  
on Sr. Roman's petition.

**April 22.**

An illegible  
record.

**Excerpt** from Registers of Sessions of Su-  
perior Council. Judgments rendered in  
Session of the Superior on this date. Doc-  
ument charred and so mutilated as to be

almost entirely illegible.

By words here and there we can see that case of Placide  
Dorient is presented by Jean Raymond and that it is for part  
of the cargo of the Ship L'Unique in partnership with Sr.  
Charles Le Sassier.

**April 24.**  
No. 1098. 3 pp.

Judgment of Superior  
Council in Lange vs.  
Roman.

Both parties condemned  
to abide by Broutin's  
survey. Lange is per-  
mitted to gather the  
crop he has planted on  
Roman's land. After the  
harvest Roman's pos-  
session to be enforced.

**Session** of Superior Council of this day  
where were present MM. Pierre Rigaud,  
Marquis de Vaudreuil, Governor of Loui-  
siana; Sebastian Francois Ange Le Nor-  
mant, First Councillor, Commissioner of  
the Marine and Ordonnateur of the said  
Province.

Judgment rendered in case of Guil-  
laume Lange, settler at the village Des  
Allemands, called Carlestin, plaintiff, vs.

The plaintiff Lange is described as "settler at the village Des Allemands called Carlestin" and the defendant Roman as a resident of said village. This is the first reference in our records to "the Village Des Allemandes called Carlestin".

Jacques Roman, resident in the said village, defendant: Council orders both parties to adhere to their limits, as given by Engineer Broutin, however owing to the labor and sowing of Sr. Lange, that it be permitted to Lange to gather the crop which is on Roman's land for this year only. After the harvest the land will be solely Sr. Roman's as the rest of his plantation.

Signed: Lenormant. Vaudreuil. Document charred and perforated.

April 24. 29263. fo. 1. 4336. 2 pp.

Sale of a negro for 800 livres by Alexis Diederich, officer of the Swiss troops in Louisiana, to Antoine Prevost.

**Sale** of a negro named Raymond for 800 piastres by Sr. Alexis Diederich, officer in the Swiss troops, to Sr. Antoine Prevost, in the presence of Augustin Chantalou and Lenormand. Signed: Prevost. Lenormand. Chantalou. Henry, notary.

April 25. 2½ pp.

Guillaume Locquet de la Pommeraye sues his brother-in-law, Trudeau to return cattle paid for by plaintiff.

**Petition** to Superior Council by Guillaume Locquet de la Pommeraye for citation of Sr. Trudeau, his brother-in-law, to compel him to return cattle paid for by said de la Pommeraye and that Trudeau pay costs of court. Signed: De la Pommeray.

April 25. Order to both parties to appear before Council at its next session. Signed: Lenormant. October 28. Notices of citation served on Sr. Guillaume Locquet de la Pommeraye on his plantation and on Sr. Trudeau, Marine officer, on his plantation, three fourths of a league from New Orleans, to appear before Council on the first Saturday of November. Signed: Lenormand.

April 25. 29268. fo. 1. 4338. 2½ pp.

Joseph Villars Dubreuil declares before the Notary of the Province that on account of his advanced age he is unable to appear in person before the Privy Council of State (in Paris) and will be represented there by Francois Jahan who has complete knowledge of the case and whom he has delegated for that purpose.

**Act passed** before the Notary Royal of the Province and witnesses of declaration of Joseph Villars Dubreuil that he is unable, on account of advanced age, to appear in person before the Privy Council of State of the King, and will respond by sending Francois Jahan, who has complete knowledge of the case and whom he has delegated to represent him. Signed: Du Breuil. Cantrelle. Dewordet. Henry, notary. In body of document: De Borden: Document in good condition but margins slightly torn.



April 25. fo. 1. **Procuration** to Sr. Francois Jahan by Joseph Villars du Breuil, to act for him as petitioner or defendant as need may be in the case for which he is summoned to the King's Privy Council.

29265. 4337. 2 1/4 pp.

Procuration from Dubreuil to Jahan for the purpose above set forth.

April 25. 29271. **Procuration** granted to Sr. Andre Fabry de la Bruyere, by Guillaume Locquet de la Pommeray, to act for him as need may be, as he is unable to go to France on account of his infirmity. (Signed): Delapommeray. Chantalou. Lenormand. Henry, notary.

fo. 1. 4339. 2 pp.

Guillaume Locquet de la Pommeray grants procuration to Andre Fabre de la Bruyere to represent him in France as he is unable to go on account of his infirmity.

April 26. 29279. **Statement** of merchandise sold to Sr. Gonzalle by Sr. Le Sassier, amounting to a sum of 4528 livres.

4341.

Statement of debt of 4528 livres due by Le Sassier to Gonzales for merchandise and notarial promise of debtor to pay same, secured by mortgage on all his property.

The latter promises by notarial act to pay above amount and hypothecates all his movable and immovable property to said Gonzalle until payment of same, especially his residence in the City and his slaves. (Signed): Henry, notary. Margins curled and torn.

April 26. 29273. **Commission** as Treasurer of the Marine at New Orleans to Jean Baptiste Destrehan, now acting in that capacity, to continue the functions of said charge, beginning from 1746, for receipt of all funds remitted to him, from the vessels of the King or others, as also of extraordinary receipts following order of the Ordonnateur of said country. Issued March 31, 1746.

fo. 1. 4340. 5 1/2 pp.

Commission of Jean Baptiste Destrehan as Treasurer of the Marine at New Orleans beginning from 1746. Destrehan furnishes a bond for 40,000 livres with Jacques Hubert Belair as surety and will furnish another bond in Paris.

See final settlement between the government and Destrehan, Sept. 21, 1776, *La. Hist. Qy.*, vol. 15, p. 162 (January 1932).

April 26. Before the Notary Royal of Louisiana, and witnesses this commission was remitted to Monsr. Destrehan by the Ordonnateur of this Province, said J. B. Destrehan accepting it and promising to furnish bond to the General Treasurers of the Marine. The bond in the amount of forty thousand livres furnished by Mr. Jacques Hubert Belair, a settler in this Colony, under the conditions mentioned that Sr. Destrehan will also furnish immediately another bond in Paris; Sr. Belair mortgaging his movables and immovables as security for said bond. Signed: Destrehan. Bellair. Le Bretton. Lenormant. Villere. Chantalou. Henry, notary.

Document in good condition.

April 26. 1 p.

Answer of Jean Baptiste Faucon Dumanoir to the suit of Rasteau.

Answer to the Superior Council by Mr. Jean Baptiste Faucon Dumanoir, concerning the much exaggerated proceedings of Mr. Ratteau (Rasteau) stating difficulties under which he is laboring from the failure of his indigo crop and his promise to pay when the next crop is gathered. Signed: J. B. Faucon Dumanoir. Document in good condition.

April 27. 29281. fo. 1. 4342. 2½ pp.

The widow Gallot obligates herself to pay 2200 piastres to Hougues in three years, securing the same by mortgage.

Promise by Widow Gallot to pay in three years from date the sum of two thousand two hundred piastres to Sr. Mougues furnishing mortgage security for said payment on her movables and immovables, her house and her slaves.

Signed: veuve gallot. Lenormand. Chantalou. Henry, notary.

April 27. 21½ pp.

St. Martin de Jauregibery seeks to recover 35 piastres out of the proceeds of the sale of the free negress Jeannette condemned to slavery for theft and other misconduct. (See this Index, April 8, 1747). The claim was based on money loaned Jeannette and merchandise sold to Marguerite Coustilha, sister, also a free negress. He alleges that Marguerite died in 1746 (before the condemnation of Jeannette) and that the former left her estate to the latter. Fleurian, the Procureur General recommended the allowance, but the Superior Court disregarded the advice and denied the claim.

Petition to Mr. Le Normant by Sr. St. Martin de Jauregibery that he be paid thirty-five piastres on sale of Jeannette, a free negress. He stated that he had lent to Marguerite Coustilha, in 1745, Jeannette's sister twenty piastres, for her commerce, which she was to return in a few days and that he moreover sold to her unthreshed rice, amounting to fifteen piastres, the whole amounting to thirty-five piastres, which has come to the knowledge of the Attorney General. In the year 1746, the negress Marguerite was ill, and died, leaving all her clothes, crockery and furniture to her sister Jeannette, free as herself, on condition that she would pay all her debts. For her misdeeds and her bad conduct said Jeannette was condemned to be sold, petitioner prays to be paid on the returns of sale as she inherited from Marguerite. Signed: St. Martin.

tioner prays to be paid on the returns of sale as she inherited from Marguerite. Signed: St. Martin.

April 27. Order to communicate above petition to the Attorney General. Signed: Lenormant.

April 27. Consent by the Procureur General that Sr. St. Martin be paid thirty-five piastres by the sister of Jeannette and from the returns on the sale of the said Jeannette. Signed: fleuria.

May 6. Considering the petition and the Conclusions of the Procureur General of the King the Council has rejected demand of plaintiff or petitioner.

Given in the Council Chamber May 6, 1747. Signed: Lenormant.

April 28.

Suit by Chantalou, agent for Paul Rasteau against Tivel and others, pilots at the Balize, for monies due said Rasteau.

**Petition to Superior Council by Augustin Chantalou**, acting as proxy for Paul Rasteau, for citation of one Tivel, pilot at the Balize, successor to deceased Davy, whose widow married Dupre; also of Sr. Navert, alias Plaisance, whose widow married Sr.

Salbre; Cristina, resident of this City, and Sr. Roujet, for recovery of sums due to said Rasteau. Signed: Chantalou.

April 28. Order for citation of said parties and executors of above mentioned successions. Signed: Lafreniere.

April 29. Notices of citation served on the following individuals: Tivel, Dupre, Cristina, Roujet, to appear before the Council at its next session Saturday, at nine o'clock a. m. following petition of Augustin Chantalou representing Sr Rasteau. ed: Lenormand. Document in good condition.

April 28. 29287. 29284. 4343.

This entry covers copy of a Bill of Exchange for 3000 livres and protest thereof drawn by Diron in Mobile, May 8, 1739, on Diron Dartaguiette, General Receiver of the finances of Auch at the Royal Palace at Paris.

One of the documents attached is of historical importance. It is a letter from Diron of Mobile to his brother, Diron Dartaguiette in Paris, asking him to pay the draft out of funds the drawer will receive from him in France, and that the draft represents cash received by the drawer from Bizoton.

The historians of this period have not heretofore been able to fix definitely the degree of relationship between Diron of Mobile and Diron of Paris.

The Bill of Exchange was evidently delivered to the widow of Louis Joseph Bizoton who in life was Commissary of Marine at Mobile. In 1744 she caused the Bill to be presented to Diron Dartaguiette in Paris and on his refusal to pay, the huissier (sheriff) of the Chatelet of Paris protested his refusal.

Thereafter in April, 1746, the widow, Magdaline Rose Malo Bizoton executed a procuration to Charles Lafort Montrend,

**Copy of Bill of Exchange and Protest deposited in Registry of New Orleans to be delivered to whom by right.** Signed: Lessassier.

The following documents are attached:

May 8, 1739. From Mobile, Diron asks his brother in Paris to pay to order of Sr. Bizoton, Commissioner at Mobile, the sum of three thousand livres, on the funds he will receive in France for him, having received from the said Bizoton the value of said sum in cash, which will oblige him. Signed: diron d'artaguiette and on the side: Thank you.

Addressed to Monsieur Dartaguiette General receiver of the finances of Auch at the Royal Palace at Paris.

This document recites that the bill was presented by the undersigned huissier in the year 1744 on request of Dame Malo, widow of Sr. Louis Joseph Bizoton, Commissioner of the Marine at the Post of Mobile, in the Province of Louisiana, residing at Versailles, Rue de la Paroisse, at home of Mr Le Prince her uncle, acting in her name and on account of the community existing between her and her husband, and moreover on account of the donation to her of a child's share, acting also as tutrix of Louis Charles Bizoton, their only son, and also as authorized to recover the debts of the community, under the advice of relatives of said minor and of Mar-



merchant of New Orleans, to collect the Bill from the Estate of Diron (Dartaguiette) of Mobile, deceased.

These documents (the protest and the procuration) were executed by the widow in her own behalf and on behalf of her son and daughter, only heirs of Bizoton, deceased. The personal side of these documents may be of use to descendants of Bizoton.

guerite Catherine Bizoton, daughter of Mr. Bizoton by his first marriage, also a minor, emancipated by decree of the Chatelet of Paris in August 1746, domiciled with Mme. Bizoton at the said residence at Versailles, and for twenty four hours only without jurisdiction in the house of the undersigned 'huissier', That Jean Merfin, huissier, Commissary appraiser at the Chatelet of Paris, there residing, notified Mr. Dartaguiette, Receiver, etc., residing Rue Rich-

elieu, next to the Royal Palace, to pay three thousand livres, amount of this bill of exchange, showing him the original. Said Mr. Dartaguiette refused to sign whereon said Mirfin protested, the whole in the presence of Nicolas Coquy and Pierre Grony, both practitioners at the Chatelet, residing in Paris.

Collated by the Councillor of the King and notaries of the Chatalet, dated June 3, 1746. Signed: V Cudde. Robineau.

April 17, 1746. Appearance before the Councillors of the Chatelet of Paris by Magdalaine Rose Malo widow of Sr. Louis Joseph Bizoton, ordinary Commissioner of the Marine at the Post of Mobile, Judge of that Jurisdiction and second Councillor in the Superior Council of Louisiana residing at the Community of the Daughters of St. Joseph, Rue St. Dominique, Quartier of St. Germain des Pres, Parish of Saint Sulpice as well in her name on account of the Community of goods existing between her and her husband, and of the donation of a child's share in her contract of marriage, passed before Sr. Rossard, notary Royal of the Province of Louisiana, passed April 16, 1735, and filed in Registry July 7, 1736; also as tutrix of her son, only child of her marriage to Sr. Bizoton, heir of one-half of his father's estate and likewise as tutrix of Marguerite Catherine Bizoton, sole daughter of Sr. Bizoton, by his previous marriage, a minor who has been emancipated by decree of the Civil Lieutenant of the Chatelet of Paris on Aug. 21st, 1741, heiress of the other half of Bizoton's estate; wherefore the Widow Bizoton acting and stipulating for herself and for both heirs, has undertaken to recover all debts due to the estate and to the Community, to be able to effect division. By these presents she grants her procuration to Charles Lefort Montrond, merchant of New Orleans, without derogating from her previous procuration, she gives him power to proceed against the succession, heirs and representatives of deceased Sieur Diron Dartaguiette for payment of the sum of three thousand livres, as per bill of exchange at Mobile in 1739 to order of Commissioner Bizoton, this procuration to stand until revocation of same. Signed: Robineau. Judde.

June 10, 1746. Certification of signatures of Sieurs Robineau and Judde. Signed: Sauvage. Dubo. Huet. Brion. Chastanier.

April 29.  
2½ pp.

Jean Baptiste Prevost, Agent of the Company of the Indies, sues Pery for the purpose of ascertaining the names of all his debtors and to collect such debts for account of the Company.

**Petition by Jean Baptiste Prevost, Agent of the Company of the Indies for citation of Sr. Pery for recovery of debt praying that Srs. La Gerbe, Blain and all others debtors of said Pary may be found and turn over to said Company what they owe to said Pery who should pay costs. Signed: Prevost.**

April 29. Citation of Sr. Pery before Council at its next session. Signed: Lenormant.

May 12. Notice of citation before Council at its next session served on Sr. Gerard Pery, at domicile of Sr. Antoine Aufrere, his father-in-law, by Lenormand.

April 29. 29288.  
fo. 1. 4344. 4 pp.

Marriage contract of Francois Lioteau, native of Dunkirk, master mason in New Orleans, and Marie Louise Content, minor daughter of Joseph Content and Jeanne Digary, his wife, and native of Mobile.

**Marriage Contract of Francois Lioteau, a native of Dunkirk, widower of Isabelle de Laistre, master mason in this Colony, on the one side and Marie Louise Content, minor daughter of Joseph Content and Jeanne Digary, his wife, a native of Mobile. The groom could not write. Signed Marie Louise Joseph Content. h, Buquoy. Legros. Marie anne orgeron. (. . . illegible) Lenormand. Chantalou. Henry notary.**

No date.  
4 pp.

Trudeau vs. de la Pommeray. Answer of Defendant.

This four page answer to Trudeau's suit for 35 livres begins on a note of anger, to-wit, that plaintiff Trudeau, brother-in-law of defendant, is taking sides against him in favor of Scipio, a negro in a collateral matter, whereby Trudeau has made it unrighteous to force defendant to pay the negro the sum claimed. A trifling petty row between brothers-in-law.

**Answer of Sr. de la Pommeray to suit of Trudeau. He asserts that plaintiff his brother-in-law, is here taking sides against defendant in favor of a negro and that there is no justice in this demand. He admits that he promised Trudeau to join with him in paying Scipio 55 livres balance due him by Trudeau's father for a voyage he made to Illinois for Sr. La Buissoniere. Defendant refused to join in the payment because he found that Trudeau has sold to Scipio a cow or a calf that belonged to Trudeau Sr., which deprived their aunt, Mrs. Carrier of the milk she needed for her family. The plea rambles along with**

many words but the substance is that Trudeau's unauthorized act in the cow transaction has released defendant from his engagement to contribute toward the payment of 35 livres to the negro.

(To be continued)

**INDEX TO THE SPANISH JUDICIAL RECORDS  
OF LOUISIANA  
XLIV.**

**March, 1782.**

(Continued from July, 1934, Quarterly)

By LAURA L. PORTEOUS.

With Marginal Notes by Henry P. Dart (when not initialed)  
and some revision of her work.

Spanish officials appearing in this installment:

Governor General Esteban Miro, Colonel of the Fixed Regiment  
of this place, Acting Governor of this Province, etc.

Cecilio Odoardo, Lieutenant Governor and Auditor of War.  
(Where the record dates back to 1775.)

Francisco Cruzat, Commander of the Post of Illinois.

Alexandro de Clouet, Commander at Opelousas and Atakapas.

Miguel de Cantrelle, Lieutenant of the Armies of His Majesty,  
Commander at the Post of Cabannoces, Parish of St.  
Jacques of the Acadiens.

Joseph Ducros, Jacinto Panis, and Juan Arnoul, Members of  
the Cabildo Court of Appeals.

Sindico Procurador General Astier.

Alcaldes Guido Dufossat and Jacinto Panis.

Attornies Francisco Broutin, Fernando Rodriguez, and Pedro  
Bertoniere.

Escribanos Andres Almonester and Leonardo Mazange.

Appraisers Adrien de la Place and Francisco Bijon.

Interpreter Juan Jose Duforest; Assistants, Francisco de San  
Martin and Esteban de Quinones.

Juan Ventura Morales, Accountant and Treasurer for the Pop-  
ulation and Junior Alcalde. (Where the record runs into  
1783.)

Escribano Fernando Rodriguez. (Where the record runs into  
1783.)

**March 1, 1782.**

**Francisco Ruvier and  
his wife, Juana Clara,  
petition to sell a house.**

No. 3453. 20 pp.

Court of Alcalde

Jacinto Panis.

Assessor, Postigo.

Escribano, Mazange.

Juana Clara Ravier (or Ruvier)  
states that she has seven children,  
six of age and one minor, that she  
is advanced in years and continu-  
ally ill, so is unable to keep up  
some houses she owns, which have  
been rented to serve for her needs.  
Should these houses happen to need  
repairs she has no funds with  
which to make them. For this



reason and because her children by her first marriage, being of age, demand their legitimate interests she finds it impossible to settle with them unless she be permitted to sell her houses, together with two slaves, which is all the property remaining after deducting her dowry. This she petitions to do. Panis denies the petition because Mrs. Ruvier has a husband as well as minor children.

*A Second Petition.*

A second petition is presented by Francisco Ruvier and his wife, Juana Maria Clara, wherein the husband agrees to the foregoing petition and asks to have it sent to the curator of the minors. When this is done, Francisco Broutin, as curator of the minor children of Pedro Mioton, answers consenting to the sale on condition that the shares coming to the minors be secured and put out at interest for them. Broutin's petition is sent to Mr. and Mrs. Ruvier, which brings an answer from them agreeing to his conditions. Alcalde Panis sends the proceedings to Postigo for legal advice. The ruling is: Let the petition be sent to Mrs. Ruvier's other children.

*Mr. and Mrs. Sauvagin answer.*

After some delay, Huberto Philipe Sauvagin, husband of Maria Genoveva Mioton, jointly with her opposes the sale which they consider prejudicial to them. The houses and slaves form a part of the estate left by the late Pedro Mioton, who was Mrs. Sauvagin's father. They support the petitory action (accion petitoria) to claim the rights belonging to the minors, as they are also those of one of the petitioners, in the succession of her late father, whose property Mr. and Mrs. Ruvier ask permission to sell. Such a sale would cause considerable loss, prejudice, etc., to the co-heirs of the estate, as they will prove in their time. They ask to have the said sale excluded and the escribano ordered not to issue any document permitting the Ruviers to alienate the remaining property of the Mioton estate, as it is well known that they have already dissipated the greater part of it. There is a further request to have this suit joined to the principal proceedings for the settlement of the Mioton succession, as it forms a part of it, and let all be delivered to him. This petition is sent to Francisco Ruvier.

*The Ruviers answer.*

Mr. Ruvier's next move is to oppose Mr. Sauvagin's petition made to prevent the sale, which he claims arises from a supposition that he and his wife are acting in bad faith. Such a supposition is unfounded. All they wish to do is to turn over to each heir what belongs to him. Therefore he and Mrs. Ruvier agree to have the records of this process attached to the inventory made at Pedro Mioton's death. Panis, on Postigo's advice, orders this sent to Mr. Sauvagin.

Mr. Sauvagin answers.

Mr. Sauvagin answers, repeating his plea to have this suit attached to the main cause for the settlement of the Mioton succession, with an added request that the escribano be ordered not to pass any acts of sale for the alienation of the property in question until the conclusion of this case. Petition granted. Whereupon Sauvagin makes another plea, saying it is convenient to his right to have the escribano give him a certified copy of a written petition he presented sometime before, which is in the present escribano's office. Petition granted by Panis, on Postigo's advice.

The certified copy requested.

The certified copy is in French, dated April 3, 1777, and is a petition made to Governor Galvez by Genevieve Mioton, orphan child of Pierre Mioton, who says her father left at his death eight children, more daughters than sons, and an estate of 16,400 livres in money, eight slaves, more men than women, and thirty or forty silver covers and other effects, besides three houses in the city, of which a very old one was given to her by her father. Her mother, to their great sorrow, married a second time, a very dissolute man, as many will bear witness. Mr. Rouvier has spent what was left, in money, at the time of her father's death, and has disposed of the slaves and some household effects and has made beggars of her mother and the children. All that now remains are two houses and a mulattress and her child aged 8. She prays for protection from further loss through her stepfather. Galvez rules: In order to decree, let the records of which I have been informed be brought to me so as to place in security the estate belonging to the minors, and in the meanwhile notify the escribano not to execute any written instrument of alienation in favor of Juan Rovier and his wife. This ends the suit, which is unsatisfactory, as it forms a part of another.

March 1.  
**Tacitus Gaillard vs.  
Guillermo Strother,  
for a liquidation of  
accounts.**  
No. 3419. 61 pp.  
Court of Alcalde  
Jacinto Panis.  
Assessor, Postigo.  
Escribano, Mazange.

This suit is for the adjustment and settlement of a dispute growing out of the handling by defendant of some tobacco belonging to the plaintiff, brought to New Orleans from False River.

Tacitus Gaillard alleges there is pending between Guillermo Strother and himself a liquidation of various amounts belonging to the petitioner. He has been notified of Mr. Strother's intention to sail for London very shortly, without giving an account of the funds in his keeping although frequently requested to do so. He prays that Mr. Strother be prevented from leaving the city until he has settled matters and presented a reckoning of accounts in due form, before a passport be issued to him. Panis rules: Let this petition be sent to



It is terminated by an agreement to arbitrate, by Edward Church and James Mather, with power to name a third in case of discord.

The arbitrators render a decision that does not satisfy the plaintiff, who appeals to the Cabildo from the judgment of the Alcalde confirming the findings of the arbitrators.

While the appeal is pending plaintiff "consulted with various persons of learning and conscience" who counselled him to settle his differences with the defendant, and to abide by the sentence of arbitration.

This happy conclusion is reached and upon the joint petition of the parties, the Alcalde dismisses the appeal. The costs, 37 pesos and 5 reales, are equally divided. The arbitrators declined compensation "for all their time and trouble" in the hope that their decision would restore amity between the litigants.

Mr. Strother answers.

there and transferred to Mr. Mazange's warehouse. Mr. Strother asks to have these certificates verified by their makers and that Mazange attest that from the moment the tobacco belonging to Strother was placed in his warehouse it has not been moved, nor changed, and is the same he deposited there. Panis rules accordingly and the three declarations follow, Renato Brion and Martha Murray acknowledge their signatures and certificates, and Leonardo Mazange declares he rented Guillermo Strother a room in his warehouse to store some tobacco belonging to Colonel Tacitus Gaillard, which was really placed there where the greater part of it has remained up to the present. During this time it has not been moved nor changed.

The litigants arbitrate.

as to avoid costs and prejudice. They name for their arbitrators, Eduardo Church and Santiago Mather, who will determine the difficulties definitively and may also name a mediator (un tercero en Discordia), and who will adjust and liquidate their affairs. Alcalde Panis agrees to let the parties arbitrate with the arbitrators named, who shall be notified to qualify in due and proper form, and done, deliver the records of the proceedings to them.

Mr. Strother, who must not absent himself until this instance (suit) is definitely settled.

William Strother presents two exhibits. The first, dated New Orleans, February 22, 1782, signed by Brion reads: The undersigned Inspector of Tobacco for the King certifies that the tobacco in carotes presented at the King's warehouse was received there on deposit for Mr. Tacitus Gaillard, resident of Fucesse Riviere (False River). There is no other in the warehouse except one thousand three hundred and seventy five carotes they had to take to Mr. Mazange's warehouse delivered by Mr. Salmon (torn away; should be Mallines). The second is a certificate signed by Martha Murray, New Orleans, March 7, 1782, that Colonel Tacitus Gaillard, arriving from Pointe Coupee, put a part of his tobacco crop at her house, which was afterwards taken from

The two litigants decide to submit this matter to arbitration, so



Strother complains of his opponent.

Strother petitions, stating that the records have been placed in the hands of the arbitrators but that the latter, up to the present, have neither answered nor decided anything. His opponent has arranged to leave the city promptly, to go up above to Pointe Coupee solely with the malicious intent to retard this affair when he knows he, the defender, is about to leave for London. He asks to have Mr. Gaillard ordered not to leave the capital until this suit is finished. Panis rules: Send this petition to the arbitrators, that upon being informed of the matter they may state the case, according to what they may know and will be proven.

Arbitrators notified.

Upon notification, Messrs. Edward Church and James Mather answer: Tacitus Gaillard desired to go to Pointe Coupee to look for more efficacious proof appertaining to the affair, but having questioned him about the rest of the proofs he wished to produce, those mentioned by him seemed to them to be, or would be, entirely useless for the definitive sentence of this cause; for this reason the voyage is unnecessary. Alcalde Panis then rules that Tacitus Gaillard must not leave the city until this suit is finished.

The sentence by arbitration.

Eleven documents are submitted to the arbitrators, consisting of accounts, letters, notes, certificates, etc., and upon these Messrs. Church and Mather pronounce sentence by arbitration, in this manner:

1st. The tobacco now in Mr. Mazange's store is identically the same as Mr. Strother received from Colonel Gaillard for sale and justly returnable to him who is obliged and in justice ought to receive all the said tobacco now remaining unsold.

2nd. It can not be supposed the said tobacco has received any injury through neglect, or by design of Mr. Strother, since it has been in his possession, so they can not conceive that he is, or ought to be responsible, chargeable, or accountable for any natural, or unavoidable damages which it may have sustained.

3rd. As Mr. Strother did not take a particular account of the number of carottes when delivered to him, they think he is justly accountable to Colonel Gaillard for nine thousand four hundred carottes agreeable to the Colonel's calculations. Mr. Strother must be answerable for any deficiency in said number at the average price of those carottes which he sold for account of the said Gaillard, as he has not attempted to prove any unavoidable diminution of the quantity by various removals.

4th. There are 6½ lbs. of black pepper and 20 cherry planks to be accounted for at the price credited in account current, or returned to Colonel Gaillard.

5th. Colonel Gaillard to pay the storage and all other expenses that now are, or may be due on account of the tobacco and other articles belonging to him except what is charged to his account current with Mr. Strother.

6th. Mr. Strother is to appoint a person to deliver and Colonel Gaillard a person to receive the articles belonging to him that now remain unsold, the whole to be accomplished in three days after this award.

7th. The account current hereto annexed is deemed just, and right according to our best judgment and opinion and that there is now justly due from Colonel Tacitus Gaillard to Mr. William Strother in balance of accounts the sum of (space left blank).

8th. Colonel Gaillard to pay one half of all costs and charges attending this process, and Mr. Strother the other half.

Whereas: In the discussion and settlement of this affair much heat and animosity have arisen; in order to prevent further trouble, the arbitrators request the favor of the Honorable Mr. Panis, by whom they have been authorized, strictly to enjoin the parties to refrain from all further altercations in future and quietly and tacitly to submit to the award without any reflections, murmurs, or complaints, which the arbitrators (aiming only at impartial justice) shall deem a full compensation for all their time and trouble. Signed, James Mather and Edward Church.

Jacinto Panis receives this sentence by arbitration, which is in English, and orders it sent to Juan Joseph Duforest to be translated into Spanish.

Strother accepts the verdict.

The next move made, after the translation, is by Guillermo Strother when he presents a petition asking to have the definitive sentence by arbitration entirely and duly fulfilled, for this purpose it may please the Court to decide that it is consented to and passed in authority of a thing adjudged, interposing for this effect its authority and judicial decree and ordering the parties to abide by it. Panis orders this sent to Colonel Gaillard.

Tacitus Gaillard asks to appeal.

Tacitus Gaillard, an Englishman, is not satisfied with the sentence by arbitration and asks to appeal it to the Cabildo. Panis, on Postigo's advice, admits the appeal, as it has place in law. Next on file is a letter written in English, dated Wednesday, April 17, 1782, by Edward Church to Colonel Gaillard, in which he tells him that Mr. Mather called the evening before to consult with him about deciding the affair between himself and Mr. Strother. The writer mentions his reasons for postponing the matter until Gaillard's return from the country. He agreed that further delay and indulgence was not only

admissable but necessary, provided it would be likely to prove of advantage to either party, but at the same time he observed that Mr. Strother intended sailing for Europe on the first opportunity and therefore it would have to be something very important to delay the decision. He wishes Mr. Gaillard would see Mr. Mather before he leaves town and communicate to him his intention to go. Mr. Mather appears distinctly disposed to do impartial justice, and he will candidly inform Gaillard how much the additional evidence which the latter expects to procure will weigh.

Gaillard states his grievances.

Tacitus Gaillard then launches into a long petition in which he sets forth his grievances against the sentence by arbitration, which he asks to have annulled by the Cabildo to which he appeals. The ruling to this petition is signed by Panis and Postigo, and reads: Let the appeal interposed be carried out with just and due effect by the Very Illustrious Cabildo of this city.

Petition to the Cabildo.

The plaintiff makes a second plea, this time to the M. I. A. (Muy Ilustre Ayuntamiento) the Cabildo, asking to have his appeal admitted. A ruling is signed by Ducros (Joseph Ducros, Regidor Perpetuo, Depositario General), Panis (Jacinto Panis, Alcalde trying the case), and Juan Arnoul (Regidor Perpetuo, Receiver of Fines), ordering the records of the case delivered to this party in the ordinary way. Tacitus Gaillard then directs his long appeal to Messrs. Ducros, Panis, and Arnoul, in which he sums up all the transactions and his many grievances and asks to have the sentence by arbitration revoked. Much of what he related happened out of Court, and therefore was never recorded. There is no ruling to this petition, which is followed by a joint one made by Tacitus Gaillard and Guillermo Strother, stating that a sentence by arbitration has been rendered and an appeal made against it to the Cabildo by the first-named, who presented his grievances. He has consulted with persons of learning and conscience upon the particular, and they have counselled him to settle his differences with Mr. Strother, and so that it may have effect and in all times be evident, they have agreed to abide by the sentence by arbitration. They ask to have the appeal dismissed, and in order that the aforesaid sentence may have entire and due fulfillment they pray the Court to interpose its authority and judicial decree. Panis rules: With the consent of the parties, these proceedings are annulled and cancelled and in consequence His Honor says he interposes and does interpose his authority and judicial decree and orders a taxation of costs by the public taxer. Costs must be paid, one half by each of the litigants. Luis Liotaud taxes costs at 37 pesos, 5 reales.



March 3.

**Carlota Fazende, widow of Francisco Xavier Delino, asks for testimony to prove the purity of her blood, life, and manners.**

No. 21. 23 pp.

Court of Alcalde

Guido Dufossat.

Assessor, (None named).

Escribano, Andres

Almonester.

This unique procedure was not uncommon during our Spanish Era. Its purpose was to preserve the family history of the petitioner and to place in permanent shape the proof of her legitimacy, and of the standing in the community of her ancestors. Also to cover her own marriage and the purity of race of her husband. In this instance the petitioner traces her ancestry and that of her husband into the earliest days of the French regime, and the Spanish dominion. This judicial inquiry therefore preserved a geneological sequence, and the judgment of the Alcalde established the fact and made proof against the world.

With these two exhibits Carlota, or Charlotte, Fazende, widow of Francisco Xavier Delino, says it is convenient to her right to have testimony given on the purity of her blood and to have the witnesses she will present answer the following questions:

Charlotte Fazende presents questions.

Fazende, entrusted in this Colony with the affairs of His Most Christian Majesty, and of Carlota Dreaux, both born in this city, who raised, educated, and supported her in their house and company and called her daughter?

A. All the witnesses answer, namely: Pedro Henrique Derneville, Bernardo Bernoudy, Juan Bautista Macarty, that they know the party presenting them as the widow of Francisco Xavier Delino, legitimate daughter of Juan Renato Fazende, Commissioner charged in this Colony with the affairs of His Most

The petitioner presents two documents, to wit: A marriage certificate issued in New Orleans by Father Cyrillo de Barcelona, certifying that on April 14, 1760, Father Dagobert married Jean Gabriel Fazende, Officer of the Marine, native of this parish (N. O.), son of the late Jacques Fazende, Member of the Superior Council, and of the deceased Helene de Morier, and Miss Charlotte Dreux, a native of this Parish, daughter of Maturain Dreux, Officer of Militia, and Francoise Hugot. Signed, Father Dagobert, Jean Gabriel Fazende, Charlotte Dreux, Dreux de Gentilli, Florieu, de Reggio, Claudine Dreux, Chevalier Derneville, Jean Rabain, Nanette Dreux. A baptismal certificate, dated New Orleans, March 6, 1764, of Charlotte Claudine Fazende, born at Mobile, March 3, 1763, daughter of Jean Gabriel Fazende, Officer of the Marine, and Charlotte Dreux. The god-parents were Robert Antoine Robin Laugny and Claudine Dreux, wife of Mr. Dufossat. The ceremony was performed by Father Eustache.

1st. Q. Is she not the widow of Francisco Xavier Delino and the legitimate daughter of Juan

Christian Majesty, and of Carlota Dreux, native of this city, who raised, educated, and supported her in their house and company and called her daughter and she called them father and mother. This they know and it is evident to the witnesses because of the great friendship existing for many years between them and the inmates of the house of the aforementioned.

2nd. Q. Is it not true that her father was Juan Renato Fazende, legitimate son of Santiago Fazende, Member of the Superior Council, late of this Province, during the time of the French Domination and of Elena de Mosier (Helene de Morier), native of this city, who lived here during their marriage contracted before the Church, and did they not raise, educate, and support him in their house and call him son, and were they not her paternal grand-parents?

A. Juan Fazende is the legitimate son of Santiago Fazende, late Member of the Superior Council of this Colony, in the time of the French Domination and of His Most Christian Majesty, and of Elena de Mosier, native of this city, who remained here during their marriage which was contracted before the Church. They raised, educated, and supported him in their house and called him son and were his parents. This they know because they often held communication with them.

3rd. Q. Is it not true that Carlota Dreux, her mother, was the legitimate daughter of Maturino Dreux, Retired Officer, on half-pay, and of Francisca Hugo, native of this city, who raised, educated, and supported her in their house and called her daughter and were her, Carlota Fazende's maternal grand-parents?

A. It is true that Carlota Dreux, her mother, is the legitimate daughter of Maturino Dreux, a retired officer, and Francisca Hugo, a native of this city, who raised, educated, and supported her in their house, called her daughter, and were her parents.

4th. Q. Do they know if her parents, paternal and maternal grand-parents, are and have been old Christians, pure of all bad races of Moors, Jews, mulattoes, and Indians, and not recently converted, nor prosecuted for infamous crimes, but on the contrary have occupied honorable positions?

A. It is evident that her parents, paternal and maternal grand-parents, were old Christians, free of all taint of bad races, Moors, Jews, mulattoes, and Indians, and not lately converted, nor prosecuted for infamous crimes before, but on the contrary have occupied honorable positions.

5th. Q. Do they know if it is true that after the death of Francisco Xavier Delino, her husband, and before her marriage to him, she lived in her parents' house in all honor and friendship, performing acts of charity and devotion in congregation with other faithful Christians?

A. This is true, because they have seen Carlota Fazende living in her parents house in all honor, and that her conduct corresponded to her state. She performed acts of devotion and Christianity, frequenting the sacraments in congregation with the rest of the faithful.

6th. Q. Is it not true that when she contracted marriage with Francisco Xavier Delino she took with her as dowry, 1600 pesos, during the marriage this sum was much increased, and at her husband's death she inherited all of the estate belonging to the succession which she further increased to 7000 pesos, the present value of her houses, plantation, and negroes?

A. They know that when she contracted marriage with Francisco Xavier Delino she brought a large sum to the community, but they do not know the amount, but if they refer to the contract that was drawn up at the time of the marriage this sum will be evident. At the death of Francisco Xavier Delino, his widow inherited all the estate acquired during the married life. This, together with what she brought to the marriage by labor and good investments, has increased to more than 7000 pesos.

7th. Q. Is this not all generally known?

A. Yes, and what they have declared is the truth under oath. Each witness signs his declaration in answer to the questions presented.

Decision rendered.

Carlota Fazende asks to have this testimony admitted. She further requests the Court to accept the certificates she has presented, and that she will be given certified copies of the evidence given by her witnesses. Alcalde rules accordingly. Later, after reviewing the testimony, he gives his certification in these words: In the best form that he can and must he certifies, it is evident and publicly known that Carlota Fazende, widow of Francisco Xavier Delino, is a legitimate daughter of Juan Renato Fazende, Commissioner in charge of this Colony for His Most Christian Majesty, and Carlota Dreux, native of this city, who raised, educated, and supported her in their house and called her daughter, and she called them parents. It is likewise known that Juan Fazende is a legitimate son of Santiago Fazende, late Member of the Superior Council of this city during the domination of His Most Christian Majesty, and of Elena Mosier, native of this city, who during their marriage contracted before the Church had raised, educated, and supported him and called him son, and he called them parents. Charlotte Dreux is the legitimate daughter of Maturino Dreux, Retired Officer, and of Francisca Hugo, likewise a native of this city, who raised, educated, and supported her in their home and called her daughter and she called them parents. It is also known that the parents, paternal and maternal grandparents, of the said Carlota Fazende, are and have been old Christians, pure of all bad races of Jews, mulattoes, Moors, or



Indians, and have not been recently converted, nor have they ever before been accused of infamous crimes, but on the contrary they have held offices of honor. Carlota Fazende was maintained in the home of her parents with all honor and her conduct was what corresponds to her estate. She received the Holy Sacraments with the rest of the faithful. It is evident that the aforesaid brought to her marriage, which she contracted with Francisco Xavier Delino, a large sum of money; he does not know how much, but this amount may be verified by referring to the contract of marriage which was drawn up at the time. On the death of her husband she inherited all the property acquired during the married life, which was considerable, together with what she brought to the community, and by her labors she has increased her means to such an extent that she now possesses more than 7000 pesos, invested in a house, plantation, slaves, and jewels. In virtue of which His Honor ordered these proceedings to be shown to the Sindico Procurator General. To all of which Escribano Andres Almonester attests.

The Procurator's decision.

The Sindico Procurador General of this city, who signs himself Astier, states that after carefully observing the testimony given for Carlota Claudia Fazende, widow of Francisco Xavier Delino, he finds the answers of the witnesses regular and in conformity to the knowledge they have of the paternal and maternal line of the aforesaid. Therefore he offers no objection to setting down her legitimacy, purity of blood, commendable circumstances, and good habits, as well as the attestation of the estate which she possesses. In consideration of this may it please His Honor to authorize and order as she prays. New Orleans, March 5, 1782. (Signed) Astier.

Dufossat's decision.

Alcalde Dufossat rules: Whereas the foregoing testimony given for Carlota Claudia Fazende, in which her legitimacy, purity (of blood), recommendable circumstances, and good habits, as well as the fortune she now possesses have been made evident, with the merit which results from it as explained by the Sindico Procurador General, His Honor says he must approve and does approve it, in as much as it has place in law, and for its greater validation and force he interposes and does interpose his authority and judicial decree and orders delivered to her a certified copy as she has requested, upon the payment of the just fees.

Marriage contract between  
Carlota Fazende and Delino.

The next entry is a certified copy of a marriage contract drawn up before Juan B. Garic, dated November 7, 1778. It reads in part: Know you by this public writing of marriage how we, Carlota Dreux, empowered by Gabriel Juan Fazende, absent in the Kingdom of France, her husband, and Carlota Fazende, her daughter, for one part, and (Francisco) Luis Xavier Chalmet Delino, son of the late Luis

Xavier Delino, Lieutenant of Infantry in the service of His Most Christian Majesty, and Magdalena Margarita Broutin, widow of the late Luis Xavier Delino, residents of this city, have drawn up this contract. After the dowries of each are mentioned, it is stipulated that should Luis Xavier Delino die with or without a will his future wife will inherit his entire estate, and should Carlota Fazende die before her husband he will inherit her entire estate. This donation made to the survivor is not only to use and enjoy during the days of his or her life, but after the death of the survivor will go to his or her legitimate heir. This donation, however, will have no effect at the time of the death of either should there be any children born of the marriage.

Almonester's certification.

Carlota Fazende, widow of Francisco Xavier Delino, now states that it is evident from the copy of her marriage contract duly presented that when she married her late husband she had 1600 pesos, and at his death inherited his entire estate. She asks to have the present escribano certify to the death of Francisco Xavier Delino, and that he had died without leaving any legitimate issue and also that she has received the part which came to him from his paternal inheritance. Dufossat rules accordingly, and Andres Almonester certifies that when Francisco Xavier Delino died he left his share of the estate to his son, Francisco Luis Xavier Chalmet Delino, who was married to Carlota Fazende. There were no children left born of this marriage. By the partition of the young Mr. Delino's estate it appears in the inventory the sum of 1520 pesos 2 reales 25½ maravedi were received by Carlota Fazende as all may be verified from the records which are now in his possession and Archives. This ends the record\*

March 9.

**Margarita, a free negress, vs. the Guillory heirs, to compel them to declare her children free and to transmit the declaration to this Tribunal.**

No. 3440. 71 pp.

Court of Alcalde Panis.

Assessor, Postigo.

Escribano, L. Mazange.

This suit has some value to the historians, showing as it does that the commanders of the Posts in the Spanish Era took jurisdiction of probate proceedings in

The first entry is a note stipulating that pages 1 to 6, consisting of a certified copy of the emancipation of Margarita and her children, has been removed by decree dated March 31, 1783. The next, or page 7, is Margarita's petition, saying it is evident from the act of emancipation, which she duly presents, that her four children should enjoy their freedom just as she does, but instead they suffer under the power of the Guillory heirs, who are unwilling to free them. Considering that the defendants have petitioned for an opportune occa-

\* Note: It is probable Carlota Fazende Delino is about to contract a second marriage with some man of title and rank, and for this reason she proves her purity of blood, etc. It is also convenient to her interests to have an official statement of the exact amount or the extent of her estate at the time she enters into a new martial obligation.

their several bailiwicks and retained possession of the original documents. It is possible this occurred in all instances where no controversy arose that required the intervention of action of the authorities in New Orleans. Thus it appears here that the Succession of Manon La Caze, the deceased wife of Gregoire Guillory, was opened in Opelousas before Alexander De Clouet, Commander of that Post, and that her surviving husband made certain written agreements with the children of the marriage in the nature of a settlement of their mother's estate. None of these proceedings seemed to have required the approval of the Governor or of the Courts in New Orleans.

The suit under review was, however, brought in New Orleans, before the Court of the Alcalde. It was a direct action by Marguerite, an ex-slave of Guillory pere et mere, against the heirs of both, all residents of Opelousas, to recover the children of the ex-slave on the ground that plaintiff and her children had been lawfully emancipated by Guillory, and that her children were being illegally held in slavery by Guillory's heirs. While the latter insisted on a trial before De Clouet, he resisted their plea and decided that they must take the slaves to New Orleans and make their defense there. This ruling seems to confirm the theory advanced in the first paragraph of this note, that the plea of the heirs was in the nature of a plea to the jurisdiction of the Alcalde's Court though not couched in that language.

the four sons of Margarita, the free negress. For this purpose let him request the help of the Governor of this Province.

*The Despatch.*

sent by Alcalde Jacinto Panis to Commander De Clouet, consisting of a copy of the act of emancipation, removed from the beginning of this folio, Margarita's petition, and Panis' judgment. There had been a previous suit between the Guillory heirs and Margarita, dated January 20, 1781, No. 3494, before Alcalde Panis, entitled "Criminal Proceedings by Claudio Guillory to re-

sion to alienate them and to remove them, secretly, beyond the limits of the Colony, she prays the Alcalde to order the Commander of Opelousas, Alexandro De Clouet, to notify the Guillory heirs, at their cost, to present themselves in this Tribunal so as to defend their rights, or else appoint an attorney, duly instructed, to represent them, and if they do not appear within four months their defense will not be admitted in Court, and they will be held as usurpers of the freedom of her children, who should now be enjoying it. Permitting her to proceed against them, when the said time has passed, for the damages and prejudices which have been occasioned to her and to them. In a second petition she states that, in order that the foregoing may have effect, she prays to have a despatch issued and sent to Commander Alexandro De Clouet with an enclosure of a written copy of her act of emancipation, of this petition, and of Alcalde Panis' decree. The Court rules: In the principal petition the instrument presented by this party is accepted, and in the secondary one let a despatch be issued in due form to the Commander at Opelousas, Alexandro De Clouet, with an enclosure of the said instrument, the petition, and this decree, so that upon the sight of it he may be pleased to send to this Tribunal,

From page 9 to the reverse side of page 21, contains the despatch



cover a fugitive slave." The certified copy of the emancipation shows that Margarita was first given her freedom by her master, Gregoire Guilleroie, by private act, dated April 13, 1770. Later, December 31, 1770, he had the act recorded in New Orleans before Andres Almonester y Roxas, Notary Public.

*Proceedings in Opelousas.*

The case is transferred to Opelousas. The first document is signed by Chevalier De Clouet, dated July 25, 1782. It stipulates that Messrs. Guillaury Brothers submit to the decree of Mr. Pier-nas, Governor General, ad interim, for the Province, and will conduct the slaves to his Tribunal. The second, also signed by De Clouet, dated July 31, 1782, is a permit and order to Messrs. Guillory to go to the city and to take with them four slaves who will be at the disposition of the Tribunal.

*Certifications made in Opelousas.*

A copy of three separate certifications, signed by Fuselier de la Claire, A. Boisdoré, and Joseph Carriere. The first, de la Claire, certifies that Gregoire Guillory rendered an account to his children of the estate which comes to them from their mother, and delivered to them in payment, a negress, named Margarita, but when he found she was worth more than the full amount of the remainder of the said estate, Guillory came to Opelousas by night and forcibly removed the slave from his children's plantation. Baptiste Guillory, eldest son and tutor to his minor brothers, made a judicial declaration upon this abduction.

A. Boisdoré certifies: Margaret was given by Mr. Guillory to his children, on account for what should come to them from their deceased mother. This slave and her children were carried in the inventory of Mrs. Guillory's estate.

Joseph Carriere certifies: When Mr. Guillory rendered an account to his children of their mother's estate, he paid to them as a part of their shares, a negress, named Margaret, together with her children.

De Clouet certifies that the three foregoing declarations conform to their originals, which remain in the papers of the Archives of his command. Dated, Opelousas, July 29, 1782.

*Guillory heirs petition.*

A petition is presented to Mr. de Clouet, dated Opelousas, July 27, 1782, by Baptiste, Claude, Joseph, and Louis Guillory, who give a resume of the case and protest against Panis' order to go to the city with their four slaves. They state that in the year 1770 their father had the schoolmaster of the Post, and without any legal title, draw up a simple note granting freedom to the negress, Margaret, and her four children, thus profiting by their ages and incompetence to make their signatures or marks, and assuring them that he had the wherewith besides to discharge their part of their maternal portion. In 1773, their father agreed to their demand and Fuselier de la Claire, then commander, ruled that an account must be rendered by the former, who being un-

able to discharge his obligations for their legitimate dues gave them in payment, the negress and her children valued at 2000 francs, as appears in the judicial inventory, here attached, and the attestations of Messrs. Fuselier de la Claire, Antoine Boisdoré, Joseph Carriere, and Francois Le Melle. This paper, signed by them, stipulates that the emancipation is null, as the act must be made in judicial form, for which their father assured them he had had an act legally drawn up. Viewing the situation, they were constrained by a feeling of respect and gave him a quittance for the remainder which was still due them. This statement may be proven by the papers here attached. In 1777, their father, Gregoire Guillory, appeared by night, at the home of the petitioners, without a passport, armed with a knife to remove the negress by force. They made no opposition to their father's actions, since they were his children and he promised the return of the slave to them after his death, as he said he needed her services only during his life. He did not keep his agreement and profited by an informal note of emancipation to have an authentic act passed while he lived. They should have been notified of this proceeding, because they were the real owners of the slave. They ask to have their just claim considered, stressing their sad state, as it is well known here that they must support their wives and children by the sweat of their brows. They further pray for justice and the return of the negress, who claims her freedom, since she and her children rightfully belong to them. Chevalier de Clouet rules: Considering Mr. Panis' sentence and Mr. Piernas' decree, Messrs. Guillory must conduct the slaves to the Superior Tribunal to attest to the truth of their explanation.

A previous petition presented  
by Baptiste Guillory.

This is followed by a petition to Mr. De Clouet, dated Opelousas, April 27, 1778, in which Baptiste Guillory sets forth that at the time of the partition of his mother's estate, his father gave her heirs, in payment of their claims, a negress, named Margaret, but what was his surprise, when later, his father came by night to remove the slave, and naturally because of his affection for his father, he did not make any opposition. Mr. Guillory asked to have the use of her services during his life, with the understanding that she be returned to the children after his death. He was informed later that before his death, his father gave her her freedom. He could not do this, without greatly wronging his children. The petitioner knows that Margarita may be found in the city to-day where she has lived since taken there along with other slaves by some Americans, from a place called Manschac. He asks to have her returned to him and her act of emancipation annulled. Chevalier de Clouet rules: The petitioner must address himself to Mr. de Galvez, Governor General, and he, de Clouet, attests that the negress was actually removed by night, and that she belongs to the late Mr. Guillory's children by account rendered of the estate

of their late mother, of which Mr. Fuselier de la Claire took cognizance.

De Clouet certifies to de la Claire's petition.

Dated, Opelousas, January 20, 1779, Chevalier de Clouet certifies to a petition made by Fuselier de

la Claire to the Governor, which is to the effect that the demand made by Baptiste Guillory is just. He prays His Excellency, Mr. de Galvez, Governor General of this Province, to examine the original inventory, noting the appraisement of the said negress, who was given to Gregoire Guillory's children as property coming to them from their mother's estate. He removed her by night, about one year after he had rendered an account to his children. Mr. Guillory gave the slave her freedom at the expense of her proper owners. This emancipation, according to the law of nations, must be annulled. It is only permitted to legitimate owners to accord this grace with the consent of the Chief-residence (Chef-Lieu).

Inventory of Mrs. Guillory's estate.

Dated, Opelousas, March 13, 1773, Inventory of Mrs. Guillory's estate, made at the request of her

sons on the order of Mr. Fuselier de la Claire, Commander of Opelousas and Atakapas, in the presence of Antoine Boisdoré, Michelle Brigaque, Francois Le Melle, and Joseph Carriere, named as arbitrators. The estate consists principally of slaves, live stock, and real property. Margarita and her four children are valued at 2000 livres.

Guillory heirs petition de la Claire.

The inventory is followed by a petition, dated Opelousas, March 8, 1773, to Fuselier de la Claire, and

signed by J. B. Guillory, Joseph Guillory, Louis Guillory, and Claude Guillory, asking to have their father render an account of the estate of their late mother, Manon La Caze, this to include both her own and her community property, and obligating themselves to support their father until his death. Fuselier de la Claire rules: Gregoire Guillory must render an account to his children of the estate which should come to them from their mother. The three younger sons must name a curator, who may proceed under their authorization. Chevalier de Clouet certifies that the foregoing copy conforms to the original which remains in the Archives of his command.

J. B. Guillory receipts to his father.

The next entry is dated, Opelousas, March 19, 1773, and is a declaration or receipt given before

Fuselier de la Claire, in the presence of Jean Paillet and Jean Baptiste Durieux, stating that Jean Baptiste Guillory appeared in person and declares to have received from his father, Gregoire Guillory, 2315 livres 12 sols in negroes, live stock, and effects mentioned in the appraised inventory of the estate of his mother,



Manon La Caze, now dead. Gregoire Guillory further paid over to each of his children, as a remainder, 254 livres 7 sols 6 deniers. J. B. Guillory gives his father, here present, a receipt for this amount. Alexandro de Clouet certifies the above is a true copy of the original which remains in the Archives of Opelousas.

The case is resumed in New Orleans.

After the receipt of the above certified copies, the case is resumed in New Orleans, on August 16, 1782, when C atarine, Maria, Joseph, and Juan Bautista, called Guillory, free mulattoes, set forth that according to their act of emancipation, duly presented, they are free, yet they have been held as slaves for many years. They have been held by force and treated with cruelty by the Guillory heirs, who wish to annul their freedom which was granted to them by their late father. For this reason they present themselves in this Superior Tribunal so as to contest their claim for liberty which was arranged according to law and drawn up with due formalities authorized by their owner, who had acquired them during his married life. The act of emancipation was ratified in this city before Andres Almonester, and in consequence of it they protest against any document, or certification, obtained by the heirs to prove bad conduct on the part of their father. Such testimony should not be admitted in Court, because it is contrary to law. Their freedom was granted to them by an honorable man, whose conduct was always good, as everyone knows their deceased master to have been. The heirs are wanting in due respect to their father's memory. Their freedom was given in remuneration for 30 years' services on the part of their mother. Therefore, they pray to have their emancipation approved and to have the Guillory heirs ordered to leave them in peaceful possession of it, leaving them free to work in this city for themselves alone, for up until to-day they have been treated with cruelty merely for saying they were free. In support of the validity of their claim for freedom, they refer to the decision in the succession of Renato Augusto Chouteau, (La. Hist. Qy., XI, No. 3, p. 513). Mr. Chouteau had freed his two negresses and confirmed their emancipation in his will, but after his death they were claimed by his heirs, who were referred to the city of Havana. Then there is the case of the free mulatress, Margarita, Mr. Methote's slave, which was tried in Governor General Bernardo de Galvez' Court. If this Court should decide to condemn them, as in the case of the Chouteau slaves, obligating them to make good the part belonging to the Guillory minors, according to the appraisement of their parent and themselves, they ask to be leased out from now on so as to earn the full amount they will be called upon to pay. For the prosecution of this instance (suit), they name Fernando Rodriguez as their attorney. Alcalde Panis sends this petition to the Guillory heirs and appoints Rodriguez to defend

the slaves. He must be notified so as to accept and take oath. He qualifies.

Certified copy of a notarial act.

Here filed is a certified copy of a notarial act, dated New Orleans, August 12, 1782, by which Joseph Guillory appoints Francisco Broutin his attorney, to represent his interests in the suit prosecuted against him by Margarita, a free negress, to declare free her four children, Catalina, Maria, Joseph, and Juan Bautista. Presenting this document, Francisco Broutin, in the name of his client, Joseph Guillory, acting for his brothers and the free mulattoes, Catalina, Maria, Joseph, and Juan Bautista, residents of this city, declare they have presented themselves in this Superior Tribunal, the first named to annul the freedom of the latter, and these last to defend their rights. All parties say that after due reflection and with instruction and counsel of intelligent persons, they have determined to settle this matter amicably under various conditions advantageous to all parties. Therefore, they ask to have these proceedings suspended and to order Francisco Broutin to hold the mulattoes in his possession until Joseph Guillory, who holds the procurations of his brothers, can obtain their consent to proceed with this adjustment. Alcalde Jacinto Panis rules accordingly.

Joseph Guillory's petition.

Joseph Guillory further petitions, saying, while they are waiting for a general power of attorney from his brothers to arrive, he asks to have the mulattoes leased out judicially, by the month, until this Tribunal makes a disposition of the case. Guillory's petition is ordered sent to the defender of the mulattoes. Fernando Rodriguez agrees, on account of the poverty of his clients, because if permitted to work they can earn enough for their food, lodging, and clothes, it being well understood that if the definitive sentence is pronounced in their favor the lease becomes null. Jacinto Panis rules: Proceed with the lease of the Guillory mulattoes. Let it be publicly cried as the law requires, reserving to himself the right to name the day for the auction of same. The first, second, and third calls are given September 7, 11 and 16, but no offers were made for the mulattoes.

The Guillory's general procuration.

Here follows a procuration, dated Opelousas, September 9, 1782, drawn up before Alexandro de Clouet. It states that Jean Baptiste, Claude, Joseph and Louis Guillory, all residents of Opelousas, appeared and granted a general and special power of attorney to Francisco Broutin to settle the case with Margarita, the free negress, and her four children, Cateche aged about 9, Jean Baptiste about 16, Joseph about 13, and Marie about 12. Next is a petition from Juan Bautista, Claudio, Joseph, and Luis Guillory, who aver that by a foregoing decree it was ordered to lease out the mulattoes. The three public calls were made, but no one bid on them. Considering this,



they declare they know some persons who wish to hire them, so they ask to have other days set to make further calls to lease them definitively. Panis accept the procuration, and names the following day for the auction and adjudication of the lease to hire the slaves.

The lease.

On October 9, 10, and 11 (1782), a lease is offered for four mulattoes for one year, but there were no bids. Then Fernando Rodriguez, attorney for the slaves, asks for the records of the case so as to take whatever legal steps may seem convenient to the rights of his clients. Petition granted. In a second petition he sets forth that the negress and her four mulatto children, named Guillory, have been maintained in this city for more than three months, awaiting the results of a suit pending against them, brought by the Guillory heirs. Various calls have already been given to lease them out, as requested by the said heirs, until the conclusion of this litigation. The offer to lease has had no effect, since no bidder appeared. Considering that the negress and her children have nothing with which to support themselves in this city, he prays that during the term of vacation, which is near at hand, they may be permitted to work down at Barataria, and when this time has passed they will again present themselves before this Tribunal for the continuation of these proceedings, where they will remain at its orders until final judgment. Alcalde Panis orders this petition sent to the opposition.

The Guillory heirs answer the foregoing request.

The case now passes into the Court of Juan Ventura Morales (January 23, 1783), where the Guillory heirs answer the above petition, refusing to consent to the Barataria plan. They claim the slaves might run away, get drowned, or many other contingencies might arise prejudicial to them. They again pray to have them leased until this cause is sentenced. The Court rules: As the vacation is over, the permission to go to Barataria is denied; let new calls be made to lease the mulattoes.

Second calls to lease the slaves.

On February 5, 8, and 11 (1783), three new calls are given; then the two sides decide to compromise. They present a joint petition setting forth certain conditions to be expressed in a written instrument of agreement which will be drawn up to conclude this affair, authorized before the present escribano. All parties pray to have this suit broken and cancelled and annulled. Morales, on Postigo's advice, rules: Let the agreement be drawn up; to this effect he interposes his authority and judicial decree.

Margarita asks the return of the copy of her act.

Margarita asks the return of the certified copy of her act of emancipation, which also includes that of her children. Petition granted. She receipts for it. This brings about the removal of the first six pages of the folio, and



the note is inserted stating the reason why these pages are missing.

Certified copy of the act  
of agreement.

The gist of the act of agreement is: Margarita Guillory, a free negress, and her four mulatto children, must pay to the Guillory heirs 600 pesos, in conformity to and under the following conditions: 150 pesos which has to be counted as diminished by the personal labors of her son, Juan Bautista, during two years and two months that he must remain in the service of Juan B. Guillory, and 150 pesos that she has to pay in cash, 50 pesos more to be paid within three months, and the remaining 250 pesos within two years counted from this day. As soon as this amount shall be paid, the Guillory heirs agree to give Maria, Joseph, Juan Bautista, and Catalina their freedom. The above act is dated, New Orleans, April 5, 1783.

A copy of the act filed with  
the record.

Margarita petitions to have a copy of this agreement filed at the end of the proceedings, and to have

the costs taxed, which will be paid by the Guillory heirs. Morales rules accordingly. Luis Liotaud qualifies to make a taxation of costs, but never does. His acceptance and oath before Fernando Rodriguez ends the proceedings.

**March 21.**

**Juan Henderson petitions to prove himself to be a legitimate heir to Esteban Gooding.**

No. 14. 9 pp.

Court of Governor  
Esteban Miro.

Assessor, (None named).  
Escribano, Andres  
Almonester.

Governor Miro permits a letter written in English to serve as a will, the ground or reason being that it was written at a post where there was no notary.

A note is substituted for pages 1, 2, and 3, explaining that they have been removed in accordance with an order, dated April 18, 1782, and delivered to Juan Henderson as his receipt shows. Page 4 is a petition presented by Mr. Henderson asking to have his English documents translated into Spanish. Governor Miro orders Juan Josef Duforest to be notified, so that he may accept, take oath, and make the required translation. Duforest qualifies and carries out the Court's instructions. These English documents have been removed from the file. The first is a procuration

by which Esteban Gooding authorizes Juan Henderson to act as his agent in New Orleans. The second is a letter, dated Opelousas, January 31, 1779, written by Esteban Gooding to Juan Henderson, notifying him as to what he wished to have done with his property in case of his death. Among other requests, he specifies the emancipation of Maria Martha, who is with Mr. Chabert. Mr. Henderson must deliver her to Betty, who will care for her until she reaches the age of fourteen, reserving for her 100 pesos. He must also pay a note of 80 pesos to Joseph Cenhorn, which is now in Salomon (Malline's) possession. His clothes, sword, etc.,

will go to his true friend to whom he directs this letter. The third is a letter certifying that Esteban Gooding directs Henderson to arrange his affairs.

Henderson's petitions granted. John Henderson petitions, stating it is evident from the foregoing papers that Esteban Gooding has died leaving a will making him testamentary executor and heir. In the place where he was living at the time, it was impossible to obtain the services of a Notary to execute a will, and he thought it was sufficient to write and sign one by his own hand, since he had no legitimate heirs. Henderson prays to be permitted to comply with the instructions received, and to pay the legacies, the Court authorizing him by interposing its judicial decree. Miro, on Postigo's advice, rules: Having seen the disposition by Esteban Gooding in favor of Juan Henderson, by which he names him universal heir, His Lordship says that having no notary to execute the will could not be obviated, so by right he authorizes and does authorize it, and for its validity he interposes and does interpose his authority and judicial decree, and for this purpose he signs and judges.

Mr. Henderson then sets forth that Mr. Gooding has left a very small estate at the Puesto de Islas Negras (Post of Illinois), and so that the product of this may be delivered to him he asks to have the Commander there to execute the order of this Tribunal and take the necessary legal proceedings in the affair. For this purpose he prays for the corresponding despatch to Governor Miro rules: Issue the corresponding despatch to the Captain Commander of the Post of Illinois, Francisco Cruzat, with an enclosure of the foregoing decree and this document, and in accordance with it deliver to Juan Henderson, or his agent, all the property left by Esteban Gooding. A marginal note stipulates that the despatch was issued.

The petitioner asks the return of the English documents which he presented. Petition granted, on condition that he give a receipt for same. Mr. Henderson receipts as requested, and the first three pages are removed from the file, with a note stating the fact inserted. This ends the suit. The record is in very bad condition, having been almost entirely destroyed by rats.

March 23.  
**Carlota de Santinon vs.  
the estate of her husband,  
Alexandro de la Freniere,  
for their respective  
dowries.**

No. 3457. 127 pp.  
Court of Alcalde Panis  
and Juan Ventura  
Morales.

This folio is opened with a number of exhibits in French, later translated by order of Court into Spanish. The first is a marriage certificate, dated February 6, 1770, Parish of Puxe, diocese of Verdun, between the Honorable Seigneur, Jean Baptiste Alexandre, Chevalier de la Freniere, aged about thirty-six, son of the deceased Nicholas

Assessor, Juan del Postigo.  
Escribano, Leonardo Mazange.

This suit, insignificant in itself—legal action brought by a widow to have herself declared a privileged creditor of her late husband's estate—would merit scant notice were it not for the exhibits presented. These exhibits, however, are of great value to the student of Louisiana French Colonial Laws and Customs. Heretofore nearly all marriage contracts are drawn up according to the Customs of Paris. The La Freniere-Saintignon one is in accordance with the Customs of Saint Michel.

Another point of history which may be noted here is the fact that purely French people are living and serving under Their Imperial, Royal, and Apostolic Majesties (Marie Theresa and her son Joseph, Rulers of Austria). Nearly all the transactions take place in the Three Bishoprics of Metz, Toul, and Verdun, in Lorraine, thus bringing up the vexing question of Alsace-Lorraine, which constantly changed alliance, or nationality, according to the fortunes of war.—L. L. P.

de Saintignon, de Condanhove, A. de Saintignon, d'Auppernauert, Le Breton, Joseph de Saintignon, Parish Priest of Puxe. This marriage certificate is properly and duly authenticated. A certified copy of it, brought from France, was evidently filed at Cap Francais, Santo Domingo, for there is a further Notarial certification dated there August 3, 1781.

Marriage contract.

The second exhibit is the marriage contract, dated Conflan, (France), February 6, 1770, between Mr. and Mrs. de la Freniere. The names of those present reads like a page from the Almanach de Gotha. The contract was drawn before Joseph Francois Adam, Esquire, Lord of Sainte Marie of the Oaks, Counsellor of the King. The contracting parties were Jean Baptiste Alexandre Chauvin, Chevalier de La Freniere, son of Nicholas Chauvin de

Chauvin de La Freniere and the late Marguerite Le Seur, for one part; and the Very Honorable Miss Marie Gabrielle Charlotte, born Saintignon, aged about twenty, daughter of the Honorable Seigneur Jean Antoine Joseph, Count de Saintignon, and the Honorable Lady Marie Appolline, born Countess de Saintignon, for the other part. There was no opposition to the future marriage, nor was there any canonical, nor civil hindrance, the proper dispensation having been made for the suppression of the reading of two of the bans, by the Vicar General, the episcopal see being vacant. Joseph de Saintignon, Parish Priest of Puxe, having received their mutual consent to the marriage, has given the nuptial benediction with the customary ceremonies in the presence of and with the consent of their parents, relatives, and friends here assembled. The sponsors for the groom were Messrs. Louis Cesare La Breton, Esquire, Antoine Francois Gaspard, Chevalier d'Auppernauert, and for the bride Mr. de Saintignon, her father, and Mr. Philippe Francois, Baron de Condanhove, her uncle. Those signing the register were: Chevalier de La Freniere, Marie Gabrielle Charlotte



La Freniere and Marguerite Le Sueur, assisted by Louis Cezaire Le Breton, his brother-in-law, resident of Charmeaux and Madame Catherine Genevieve de Bethelin, Dowager of the late Francois de Glozier, the High and Mighty Nicolas Chauvin de La Freniere, Counsellor of the King, Procurator General for the Province of Louisiana, his father,\* and the Honorable Madame Catherine Chauvin de La Freniere, his sister, the High and Mighty Lord, Louis Hommrel (de l'Homme), Chevalier Lord of Sertilly (Chantilly or Gentilly), his brother-in-law, for one part, and Miss Marie Gabrielle Charlotte born Countess of Saintignon, daughter of the High and Mighty Jean Antoine Joseph Count de Saintignon, and the High and Mighty Marie Apoline born Countess de Saintignon, assisted by Charles Joseph, Counte de Saintignon, and Miss Marguerite Catherine, Countess de Saintignon, her brother and sister, and the High and Mighty Seigneur Pierre Paul Count de Saintignon, Chancellor of the Cathedral Church of Metz, Vicar General of the diocese of the said city of Metz, Joseph Count de Saintignon, Procurador General of the Congregation of the Canons Regular, the High and Mighty Sir Philippe Francois, Baron de Condanhove, Madame Louise Therese born Countess de Saintignon, his wife, uncle and aunt of the bride, and the High and Mighty Sir Antoine Olivier, Baron de Forcel, her cousin, and the High and Mighty Madame Christine de Longueville, his wife, the High and Mighty Sir Francois Ulric, Counte de Chanissot, and the High and Mighty Marie Françoise Felicitas, Countess de Morvillier, his wife, and Claude Pierre de Ledrier de Graveron, Gaspard Antoine Francois Chevalier D'Oppenost. In the presence of the above named Jean Baptiste Alexandre de Chauvin, Chevalier de La Frenier, and Miss Marie Gabrielle Charlotte, Countess de Saintignon, declare to have promised to take each other for man and wife before the Holy Mother, the Church, etc. Here follows the ten articles of the marriage contract.

Renunciation of community.

Written on the back of the certified copy of the marriage contract is an extract from the register of the office of the civil recorder of the Chatellet of Paris, dated Friday, January 16, 1778, to the effect that Gabrielle born Countess de Saintignon,

\* There is some mistake made in copying and re-copying this name. In both the marriage certificate and the marriage contract it is stipulated that the groom's parents are both dead. Later, the text reads, in the French document: "with the Advice of Nicolas Chauvin de La Freniere, etc., his father," though five lines above it states distinctly that he is deceased. In the Spanish translation of the same record he appears as the groom's brother. This is also an error, as Nicholas Chauvin de La Freniere, Jr., was executed in October, 1769. The copyist may have been looking at the wrong line when he made this mistake.

The exhibits filed with the suit in the Louisiana Archives are certified copies of certified copies, made in Cap Francais. The originals, of course, remain in France where first executed. Mrs. de La Freniere apparently brought with her to Santo Domingo certified copies of these records, but evidently did not wish to trust her precious copies to the perils of the sea, so she had official copies made duly and properly certified and attested. This may account for the many grave and serious errors which may be noted, the most flagrant being, the deceased father present at his son's marriage to give him advice.—L. L. P.

wife of Jean Baptiste Alexandre Chauvin, Chevalier de La Freniere, renounces her community interest in her husband's estate according to the marriage contract executed before Henry, a Notary of Conflan, in 1770, as the lady has not taken, nor extracted any property, nor effects from the said community. This marriage contract is drawn up according to the customs of St. Michel.

Separation of property.

The next exhibit is a certified copy of the legal proceedings for a separation of property between Count and Countess de La Freniere, together with the sale of the property consisting of household effects, wearing apparel, jewelry, and silverware. It is offered at public auction, and the greater part of it was adjudicated to the Countess at a purely nominal value. This sale took place on an order from Anne Gabriel Henry Bernard, Chevalier Marquis de Boulanvillier, Seigneur Depassy Glisolles, etc., Provost of Paris, considering the process brought and pending before him at the Chatellet of Paris, between Marie Gabriel born Countess de Saintignon, wife of Jean Baptiste Alexandre Chauvin, Count de La Freniere, and her husband, December 4, 1777, for a separation of property as requested by her. The Court rules that all property brought by the wife, according to the marriage contract, must be returned to her. This said contract was drawn up before Henry, Notary of the Bailiwick of Bricy in Lorraine, resident of Conflan, signed February 6, 1770, registered the same day by Victor. In settlement of this said community, among other things, the defendant (husband) agreed to give the plaintiff (wife) the sum of 12,000 livres for rings and jewels (*bagues et joyeaux, or joyaux*). The judge proceeds to review the case, giving each stage of the proceedings, including the seizure of all property to be disposed of. The effects sold at Sheriff's sale amount to 2796 livres, 19 sols, 3 deniers. This amount is turned over to Countess La Freniere, who says she will retain it and deduct it from what her husband has been condemned to pay her in the sentence rendered for a separation of property. This copy is evidently made from a certified copy of the original documents filed in the Archives of France, as it, like all the other exhibits, is duly certified to, collated, and sent out by Notaries Royal, Tach and Maureau, of Cap Francais, Island of Santo Domingo, dated August 3, 1781. Joseph Alexandre La Brasseur attests to the signatures of the two Notaries, and his signature is in turn countersigned by de Verville "Par M. L'Ordonnateur" (Le Brasseur).

A receipt by Rodriguez.

A separate sheet of paper written in Spanish, reads: "Received twelve pesos on account for my fees for these records which have been delivered to me by the Notary of the Archives, New Orleans, October 30, 1782." Signed Rodrig (Rodriguez Fernando).

Mrs. LaFreniere's renunciation  
of her community interest.

Still another exhibit, dated September 11, 1780, is the renunciation made by Mrs. La Freniere of the community interest existing between herself and her husband. It is an extract from the register of the recorder's office of the Royal Bailiwick of D'Etain, by which the Countess de Saintignon, widow of Jean Baptiste Alexandre Chauvin, Chevalier de La Freniere, renounces her community interest in her late husband's estate. Mr. de La Freniere died on his plantation near New Orleans in Louisiana. The Countess usually resides in her Chateau at Puxe. This is also a collated copy certified to by Notaries Royal, Tach and Maureau, with their signatures attested to by Joseph Alexandre Le Brasseur, and his in turn countersigned by de Verville.

Affirmation of the renunciation.

The next entry, also an exhibit, is dated September 11, 1780, and is the affirmation of the renunciation made by Mrs. de La Freniere. It is an extract from a file of papers from the Registry Office of the Royal Bailiwick of Etain, also collated and certified to in Santo Domingo, as above.

Appointing a tutor to the  
minor children.

The above document is followed by the proceedings to appoint a tutor for the minor de La Freniere children, and is dated September 11, 1780. It is an extract taken from a file of papers in the Registry Office of the Royal Bailiwick of Etain. There are two minor children by the La Freniere marriage, namely: Alexandre Cesaire Felix, aged nine and a half, and Catherine Julie, aged seven and a half. The son was with his father in Louisiana, and the daughter with her mother at Chateau de Puxe. A family meeting is held before Jean Maucomble, Counsellor of the King, to appoint a tutor and curator for the minors. It has been called at the request of Marie Gabrielle Charlotte, Countess de Saintignon, widow de La Freniere. It is composed of Jean Paul de Cambefort de la Mothe Bezale, Jean Jacques Alexandre d'Hebert, Marie Nicolas Cezar de Bricy Darrus, Antoine Albert de Lamberts, all friends of the family. They unanimously name Mrs. La Freniere, the mother, as tutrix, and for the curator they select Charles Joseph de Saintignon, their maternal uncle, at present in Paris, who upon his return will accept the commission and take oath. Mrs. La Freniere accepts her commission as tutrix and qualifies. This copy is also collated before the Notaries of Cap Francais.

Liquidation of the succession of  
Count de Saintignon.

This is another exhibit, dated July 17, 1780, and is an extract from the proceedings to liquidate the succession of the late General Count de Saintignon, showing the various amounts inherited by Mrs. de La Freniere from her father's estate. The proces-verbal of the liquidation of the community existing between him and Marie Appoline born Countess



de Saintignon, and the succession of General Count de Saintignon was made before the Lieutenant General of the Royal Bailiwick of D'Etain, June 17, 1780. The children and heirs are Charles Joseph, Count de Saintignon, Jean Baptiste Alexandre, Count Chauvin de La Freniere, husband of Marie Gabrielle Charlotte de Saintignon, a daughter and heiress, Marie Therese Josephine de Saintignon, wife of Jacques, Marquis de Venoix, also a daughter and heir, emancipated by her marriage and authorized in justice, pursuant to her rights, because of the absence of her husband, over seas, and the uncertainty of his actual existence. In this contingency, Paul Francois, Counte de Saintignon, Canon Chancellor of the Cathedral of Metz, is appointed as her Curator ad hoc, because of her minority, and Francois l'Amorlette, Attorney in Parliament, acts as a curator in title (Tutitary curator) to represent the Marquis de Venoix, absent.

Under a heading, "There has been extracted that which follows." At the instance of the Dowager Countess of Saintignon, proceedings have been brought for the liquidation of the estate existing between her late husband and herself. The entire document is not reproduced in certified copy here, but only such parts as appertain to the various amounts paid to Marie Gabrielle Charlotte Saintignon and her husband. In this respect, Count and Countess de La Freniere renounce 18,000 livres of the 30,000 agreed upon in their marriage contract, in the succession and partition of the estate of Count and Countess de Saintignon.

1st. Count de Saintignon delivered to Chevalier de La Freniere for his daughter's dowry, on February 7, 1770, 5920 livres in money, on account for the sum of 30,000 livres, as stipulated in the agreement, for which La Freniere receipts.

2nd. Count de Saintignon paid 1578 livres 6 sols to Chevalier Dappenoit, who discharges Chevalier de La Freniere for a like sum owed to him, for which a receipt is given by Mr. and Mrs. de La Freniere, dated February 24, 1770. This receipt is certified to by Chevalier Dappenoit.

3rd. Count de Saintignon delivered, through his brother, Abbe de Saintignon, to Mrs. de La Freniere, at the Notary's house in Paris, from the funds of the community, 4,800 livres, on May 23, 1772, for which a receipt was given by Mr. and Mrs. de La Freniere.

4th. Count de Saintignon was obligated by a note, under private signature, dated December 22, 1777, to reimburse Mr. Frieis & Co., of Vienna, for 6450 livres of France, advanced to Mr. and Mrs. de La Freniere. This sum was paid according to a receipt, dated September 25, 1778, and a receipt was given for this amount, making in all a total of 18,748 livres 6 sols of France. There still remains to be paid of the 30,000 livres promised, 11,251 livres 13 sols 6 deniers of France.

The proceedings for the settlement of Count de Saintignon's succession are drawn up according to the customs of Saint Michel. This document was executed at Etain, July 7, 1780, signed in the minutes, Maucomble and Ganai. The copy in the file was collated and issued by the Notaries of Cap Francais, Santo Domingo, certified to by Le Brasseur, and countersigned by de Verville.

The suit proper begins.

The suit proper begins with a petition presented by Maria Gabriela Carlota de Saintignon, widow of Count de La Freniere, through her attorney, Rafael Perdomo, asking to have the six documents, composed of twenty-eight pages, translated into Spanish by Juan Joseph Duforest. Jacinto Panis, on Postigo's advice, orders the translation made, which runs from page 32 to page 80.

Mrs. de La Freniere's  
procuracion.

The translation is followed by Mrs. de La Freniere's power of attorney, by which she appoints former Captain of Infantry of Louisiana in the service of His Most Christian Majesty, Charles Jean Baptiste Fleuriau, to act as her agent in New Orleans, to represent her cause as a privileged creditor, above all others in her late husband's estate. It is dated Cap Francais, Santo Domingo, July 29, 1781. In this instrument it is set forth that there appeared before the undersigned Notary and witnesses, Madame Marie Gabrielle Charlotte, born Countess de Saintignon, widow of Mr. Jean Baptiste Alexandre Chauvin, Count de La Freniere, who has died on his plantation near New Orleans, in Louisiana. The said widow usually lives in the home of her mother, the Dowager Countess de Saintignon, Chateau de Puxe, Diocese of Verdun, in Lorraine. She arrived a short while ago at Cap Francais on board one of the ships of the squadron commanded by Monsieur Le Comte De Grasse, and is lodged in Attorney d'Augy's house, Rue du Morne des Capucins, Parish of Notre Dame de l'Assomption.

Mrs. de La Freniere claims to be her late husband's privileged creditor for 12,000 livres for rings and jewels, as stipulated in her marriage contract, and for 18,748 livres 6 sols in French money that her husband received from her father in advancement on an inheritance of 30,000 livres. There must also be considered 3,000 livres for mourning expenses and an annual rent of 3,000 livres, making a total sum of 63,748 livres 6 sols. She mentions that she is tutrix to her minor child, Alexandre Cezaire Felix, Count de La Freniere, aged about ten and a half years, who is now in Louisiana, whither his father took him. She gives her agent the power to take charge of her son and to send him to her at Cap Francais as soon as possible.

She sends her attorney certified copies of the documents already noted as exhibits, enumerating them as:

1st. Baptismal certificate (not in the file) of Marie Gabrielle Charlotte, from the Parish Church of Puxe, dated December 25, 1749, extract made from the register of the said Parish, August

19, 1770, duly legalized by the particular Lieutenant of the Royal Bailiwick of Etain on the 22nd of the same month.

2nd. Marriage certificate of Mr. and Mrs. de La Freniere, from the Parish Church of Puxe, dated February 6, 1770. Extract from the register of the said Parish, dated August 19th and 22nd, by the same particular Lieutenant.

3rd. A file of papers copied in good form and duly legalized by the civil Lieutenant of the Provostship and Viscounty of Paris, dated October 26, 1780, consisting of:

- a. Marriage contract, executed February 10, 1770, between Mr. and Mrs. de La Freniere before German Henry, Notary Royal of the Bailiwick of Brecy, resident of Conflans.
- b. Mrs. de La Freniere's renunciation, made in the Civil Registry Office of the Chatelet of Paris, January 16, 1778, of the community stipulated in the marriage contract. This renunciation was recorded at Paris, on February 10th following.
- c. The sentence for the separation of property between Mr. and Mrs. de La Freniere, rendered at the Chatelet of Paris, March 17, 1778, pronounced the 19th, and recorded at Paris the 20th and 21st, of the same month. Count de La Freniere was notified of the sentence on the 21st, with an order given him to satisfy it.
- d. The proces-verbal of the new publication for the judicial sale of the movables and effects seized at the request of Mrs. de La Freniere, and the execution of the sentence, as well as the proclamation made of all the articles seized, on April 3rd, 4th, and 6th, of the same year.

4th. A copy in good form, duly legalized, September 11, 1780, by the Lieutenant General of the Bailiwick of Etain, of the proces-verbal of the liquidation of the community interest and succession of the Count de Saintignon, Mrs. de La Freniere's father. This document justifies the recovery of 18,748 livres 6 sols 6 deniers, by the widow, from her late husband's estate.

5th. Dated September 11, 1780, and legalized the same day by the same official, the renunciation made by Mrs. de La Freniere of the community existing between her late husband and herself, filed at the Registry Office of the Bailiwick of Etain.

6th. The proces-verbal of the affirmation made by Mrs. de La Freniere on the same day, September 11, 1780, declaring she has not seized, secreted, nor taken anything away, of the dependent estate, neither from the succession of her late husband, nor from the community existing between them.

7th. The deliberation of the friends (family meeting), homologated by the Lieutenant General of the Royal Bailiwick of Etain, the same day, September 11, 1780, which conferred upon



Mrs. de La Freniere the principal tutelage of her minor children, born of her marriage with the Count de La Freniere.

The above procuration was drawn up in the presence of Louis Constantin D'Augy, Attorney in Parliament and of the Superior Council of Cap Francais, and of Pierre Francois Joseph Petit Des Champeaux, also an Advocate in Parliament and Procurator of the Royal Sieges (Seat) and of the Admiralty of this city, witnesses required. It is signed by the Countess de La Freniere, after reading. This act was executed before Notary Maureau, and was attested by Joseph Alexandre Le Brasseur, Ordonnateur, and her certification is countersigned by Dezers. This power of attorney is translated into Spanish by Jean Joseph Duforest at the request of Rafael Perdomo, Mrs. de La Freniere's attorney. Panis, on Postigo's advice, had ordered the translation made. It runs from page 86 to the reserve side of page 92.

The case is resumed in the Spanish Court in New Orleans.

Mrs. de La Freniere asks to have herself declared a privileged creditor, above all others, in her late husband's succession, on the strength of the documents which she has presented, and to be put into possession of what she claims. On May 24, 1782, Alcalde Panis, on Assessor Postigo's advice, decrees: After reviewing the written instruments presented, he must order and does order the Countess de La Freniere paid 2400 pesos, in preference to all the other creditors, this being the amount with which her husband dowered her at the time of the marriage. She must also be paid 3600 pesos which Chevalier de La Freniere received from Count de Saintignon, his father-in-law, on account for her legitimate paternal and maternal inheritance. She may reserve to herself the right to reclaim against her husband's creditors for the 600 pesos of revenue that he consented to pay her annually for all the days of her life, as stipulated in their marriage contract.

The creditors answer the widow's claim.

The creditors, Martin Braquier, Santiago Mather, for the firm of Morgan and Mather, Juan Prieto, Vicente de Morant, Roberto Avart, Claudio Mercier, Oliver Pollock, Juan Vizente, Mrs. Boisclair, and Santiago Bougere, all creditors of the late Alexandre, Conde de La Freniere, state that they have been notified of a decree rendered by Alcalde Panis, ordering Countess de Saintignon, Widow La Freniere, paid 6,000 pesos in preference to the other creditors. This amount includes her dowry and her legitimate paternal and maternal inheritance, and whatever else the law concedes to her the right to reclaim against her husband's creditors, including 600 pesos annual rent. Speaking with due respect, they consider this decree gravely prejudicial to them, as they will prove in due time. Therefore, they pray to have it revoked and the records of the case delivered to them in the customary form, so they may enforce their petition. The creditors signing are M. Braquier, Morgan and Mather,

Glaude Mercier, Darensbourg, Louise V. Boisclair. Alcade Panis, on Postigo's advice, orders the records delivered to the creditors.

Copy of a procuration.

Next on file is a certified copy of a Notarial Act, and is a substitution of procuration, dated July 15, 1782, by which Carlos Juan Bautista Fleuriau, holding Countess de La Freniere's power of attorney, asks to have Fernando Rodriguez substituted for himself in the liquidation of her late husband's estate. The new attorney presents this copy for his client, and sets forth that a request has been made by her late husband's creditors to have the records of the case delivered to them in due form, so as to enforce their petition for a definitive sentence. Fifteen days have passed and, although they have been notified, they have not answered. Therefore, they are accused of being in default, and a request is made to have the sentence pronounced by the Court to have due effect, and the creditors condemned to pay costs. Panis, on Postigo's advice, orders the creditors to answer within six days, with a warning of what will have place in law. All creditors are notified but do not answer. The plaintiff complains of their silence, and asks to have a defender named for them. Panis, on Postigo's advice, rules: Let the decree of May 24th be complied with.

Mrs. de La Freniere  
again petitions.

Rodriguez, representing his client, says the creditors were ordered to pay her 6,000 pesos due from her late husband's estate, for her dowry and paternal and maternal inheritance, which she has received in part, and besides she was left the right to claim an annual rent of 600 pesos for which the rent of his estate is affected and obligated, since she is a privileged creditor above all the others for this amount. Consider how impracticable it would be, and the great loss the estate would suffer if she took the remainder for her full payment, besides imposing a burden upon the 12,000 pesos invested in safe and secure income producing land to give her an annual revenue during her life. She is now thirty-two and expects to live a very long time, because of the robust and perfect health she has always enjoyed. For this reason, almost none of the creditors could divide the said 12,000 pesos invested in landed property, since by so doing all would be terminated and prorated, and each would receive what justly belongs to him. She has decided to settle with them in the matter, on condition that they consent to pay her 6,000 pesos, the one-half the value of the land. With this payment they will be relieved of any and all further payments and she left in peace and quiet. Panis, on Postigo's advice, orders this sent to the late Count de La Freniere's creditors, who must answer within six days.

Mrs. de La Freniere complains.

The plaintiff, through Mr. Rodriguez, complains that her last petition, asking to have Count de La Freniere's creditors consent to deliver to her 6,000 pesos, the one-half of the principal invested which must be obligated to pay her an annual revenue of 600 pesos, has not been answered, although the Court's order was that it must be made within six days. Considering that the time has passed without any response on their part, she asks to have them declared in default. Panis, on Postigo's advice, rules: Let them be summoned by judicial compulsion in virtue of this decree.

The creditors do not answer.

Still no answer, the plaintiff presents another petition, reiterating her plea to be paid 6,000 pesos, the one-half of the value of the real property obligated to pay her 600 pesos a year. The creditors were notified, but have not answered, and by failing to do so they are in default. The Court has summoned them, threatening judicial compulsion, still they do not answer. Therefore, may it please the Court to decree and provide as she has prayed, ordering the guardian of the de La Freniere estate to deliver to her 6,000 pesos. Panis, on Postigo's advice, rules: The creditors are in default; let them be summoned by judicial compulsion in virtue of this decree, and let the orders of this Court be carried out.

Still no answer.

The creditors do not answer, so Mrs. de La Freniere again petitions, saying that she has been put to some expense for mourning for the servants, and asks to be paid 600 pesos to defray these said expenses, or whatever amount the Court may judge suitable. Panis, on Postigo's advice, rules: In his time he will decree.

Mrs. de La Freniere again petitions.

Another petition from the plaintiff to the effect that by a sentence pronounced the de La Freniere creditors were ordered to pay her 6,000 pesos, the amount of her dowry. This Tribunal is mistaken in the dowry, which must be understood to be 3749 pesos 5 reales which her husband received and 2400 pesos, the appraised value of all her movable property, clothes, and jewels, thus she lacks 6149 pesos 5 reales for the completion, the residue of the 6,000 pesos mentioned. In virtue of which she prays to have her opponents deliver to her this said amount. Panis, on Postigo's advice, rules: In his time he will present this party's claim. This is followed by a long sentence rendered by these two named officials, dated September 27, 1782, which reads in part: Having seen the marriage contract of Count and Countess de La Freniere, it appears that he made her a donation of 600 pesos annual revenue during her life, to be taken from the best part of his property. It is not possible to give the said lady this 600 pesos annually, because her husband has sold his property to satisfy his creditors. His Honor says that the La Freniere suc-



cession must pay the widow 6,000 pesos for one time only, and that she must also be recompensed for the 600 pesos annual revenue she would receive during her life, so that with its product she can support her family. She must also be paid 500 pesos for the mourning purchased for herself, her children, and the servants, at the time of her husband's death, besides the 149 pesos 5 reales that were included in the decree of May 24th, which amounts in all to 6649 pesos 5 reales. The succession will not be responsible for any other amounts than those mentioned in this decree and the provision of May 24th. Thus His Honor ordered and signed.

Again Mrs. de La Freniere petitions.

The widow answers this decree, saying that it has not been taken into consideration that in reclaiming her pension of 600 pesos a year, the time intervening between the date of Count de La Freniere's death, September 25, 1779, and September 27, 1782, the day the Court ordered her paid 6,000 pesos, she has received nothing; and besides, she has the right to claim it from September 27, 1782, until her death. Therefore, she prays to be paid what rightfully belongs to her. Panis, on Postigo's advice, orders this sent to the creditors, who must appear for the first Audience.

Another petition from Mrs. de La Freniere.

The plaintiff complains that her opponents have not answered for the first audience, as they were ordered to do; therefore, she accuses them of being in default, and requests the Court to decree and order as she has prayed. Panis, on Postigo's advice, rules: Let the creditors be summoned by judicial compulsion in virtue of this decree, and let the orders of this Court be carried out. A longer ruling follows, rendered by Alcalde Jacinto Panis, on Licenciado Postigo's advice, dated October 10, 1782, reading: Having seen the claims of Countess de La Freniere, His Honor says: Notwithstanding the decree of September 27th, which condemned the succession of the late Count de La Freniere to pay the Countess 1800 pesos because of an annual revenue due for three years since her husband's death, at the rate of 600 pesos a year, from this amount there must be subtracted 552 pesos, in accordance with a sentence pronounced at Paris, March 19, 1778, which she received from the product of the Count's estate, on account for her dowry. Therefore, the succession need pay her only 1248 pesos, as this is all that remains to be satisfied for her dower rights.

The plaintiff asks to tax costs.

Mrs. de La Freniere asks to have the records of the case delivered to her in the customary form. Panis rules: As it is prayed. She then asks for a taxation of costs. Panis, on Postigo's advice, rules: Let a taxation be made by Luis Lioteau after complying with the usual formalities. Luis Lioteau is notified, accepts, and takes oath; but before proceeding with the taxation, two re-

ceipts and a petition are filed relative to the translations made. The first is dated January 21, 1783, and is signed by Francisco de San Martin. It is an acknowledgment of 10 pesos paid to him by Juan Joseph Duforest for having served as amanuensis in the translations made of various French documents belonging to the succession of the late Count de La Freniere. The second is of the same date, signed by Estevan de Quinones, and is for 50 pesos for assistance given in the translation of various French documents used in the settlement of the estate of the late Juan Bautista Alexandro de La Freniere. Juan Joseph Duforest petitions, saying: As Interpreter for this Province, he has translated a number of documents, belonging to the Le Freniere succession, from French into Spanish, and as this was an extensive piece of work he had to employ two persons to help. He was obliged to pay them promptly, according to a verbal order from His Lordship, the acting Governor General of this Province. He paid his two assistants 60 pesos as their receipts, duly presented, show. He prays to be reimbursed for this amount from the funds of the estate, and to have his own work appraised. The case has now passed into Alcalde Juan Ventura Morales' Court, and he, on the advice of Postigo, orders the La Freniere estate to refund the 60 pesos already paid, and to let the official taxer of costs make a price for Juan Joseph Duforest's work. Luis Lioteau taxes costs at 128 pesos 1½ reales. Duforest receipts for the 60 pesos refund.

March 27.

**Succession of Luis Laloire. Inventory and valuation of his estate.**  
No. 3426. 205. pp.  
Court of Acting Governor Miro.  
Assessor, Postigo.  
Escribanos, Mazange and Rodriguez.

This suit is historically important only in that it gives the details of procedure in settling ordinary successions in Spanish Louisiana, with the many delays, court actions, and other minute details involved.—W. P.

The succession is formally opened with acting Governor Miro's announcement of the death of Luis Laloire, who has left minor children. The escribano certified to the death, the keys are collected, and a copy of the will is filed. It is dated March 22, 1782, and states that the testator is named Luis Laloire, son of Claudio Laloire and Mariana Lacroix, both dead. He married Feliciana Bunel according to the rites of the Church. Two children were born of this marriage, Claudio aged about seven, and Juan Bautista about six. He and his wife were married with a

contract drawn up by Andres Almonester, about ten years ago. He stipulates what he owes at the time his will is made, and the debts due his estate. He frees his slave, Margarita, aged fifty-five, in remuneration for many years of services, and Juana, aged fifty-six, for the same reason. He leaves Margarita five pesos to help her support herself in freedom. He names his

wife tutrix and curatrix ad bono, and Francisco Delery testamentary executor, who is empowered to sell what is necessary to pay funeral expenses. He leaves his wife the one-fifth of his estate, after deducting funeral expenses, and his two sons his universal heirs. The witnesses to this document are Lazaro Estardy, Santiago Coquelin, and Antonio Blanchard.

*Appointing a curator.*

Esteban Miro names Francisco Broutin, curator ad lites. He is notified, and qualifies, giving Pedro Bertoniére as his bondsman. Whereupon, Miro issues the necessary act confirming him in the curatorship. Broutin then asks to make an inventory and valuation of the estate by the public appraisers, so as to make clear the part belonging to his minors. Miro rules accordingly, and Adrien de la Place and Francisco Bigeon are notified. They accept and take oath to place a just value on the property. Feliciana Bunel, widow of Luis Laloire, also asks to have an inventory and appraisement made. She claims that she can not represent her own rights, as she does not understand Spanish; therefore she asks to name Pedro Bertoniére as her attorney. Petition granted.

*Inventory.*

The inventory is made in the presence of Acting Governor Esteban Miro, Francisco Broutin, curator ad lites for the minors, Pedro Bertoniére representing Widow Feliciana Bunel, Francisco Delery, testamentary executor and guardian of the estate, Francisco Bijon and Adrien de la Place, appraisers, and Leonardo Mazange, Escribano. The estate consists of household effects, wearing apparel, cash money, 400 pesos, which at the request of the widow was delivered to her, 200 of it to be used to pay Luis Boisdore in conformity to Mr. Laloire's will, and the surplus to be used to defray funeral expenses, which they set down for a memorandum. There are also slaves, real property, papers showing notes, debts and obligations, acts of sale for slaves, bills of exchange, etc., and a certification, signed by Mr. Dabbadie, dated January 3, 1764, which makes it evident that he was retiring the deceased (Mr. Laloire) on half-pay from his rank as an officer of infantry in the services of His Most Christian Majesty. There are also many letters.

*Any other estate.*

When the taking of the inventory is finished, Broutin asks to have the widow swear and declare whether she knows of any other property besides what had already been inventoried. Miro rules accordingly. Feliciana Bunel Laloire, pursuant to the foregoing decree, declares that she knows of no other property belonging to her late husband except what has already been inventoried, and promises that if anything else should be discovered she will produce it in this Tribunal. The interested parties ask for an approval of the inventory and appraisement, and that all



be condemned to abide by it. Miro rules that with the consent of the parties he approves the inventory and valuation made of Luis Laloire's estate and orders all to abide by it.

The widow asks for the estate.

Feliciana Bunel petitions, saying that in order to avoid inexcusable costs that would result from a judicial sale, which would be detrimental to her minor children, she asks to have the estate adjudicated to her at the price of its valuation, which would be of advantage to her children. She agrees to give the necessary security for the shares that would go to them. Miro orders this request sent to the other interested parties.

Broutin refuses.

The Curator refuses to consent to this adjudication, because all of the property appraised in St. James of the Acadiens Parish has been made at much less than the just value, which would cause great prejudice to the minors. He asks to have Miguel de Cantrelle, Commander of the Parish, transmit to the Tribunal all the Laloire property in his jurisdiction, so as to sell it at public auction in this city and thus secure for the minors what belongs to them, because Mrs. Bunel might marry again and dissipate the property. Miro orders this petition sent to the guardian of the estate.

The Executor answers.

Francisco Delery, testamentary executor and guardian of the estate of the late Luis Laloire, answers by first presenting a certified copy of a notarial act by which he appoints Fernando Rodriguez to represent his interests. Acting as agent, the latter asks for the records of all proceedings in the case. Petition granted. In a second petition, he sets forth that he has just received a letter from Miguel Cantrelle, Commander of the Post of the Acadiens, who advises him that he has received an order from Acting Governor Miro to repair the roads so as to be able to sell the Laloire plantation, since Mrs. Laloire had petitioned, some six months ago, for permission to dispose of it. Her request was granted by Acting Governor Miro, as it was to the advantage of the minors. He is now in position to get the best value possible, should he sell; so he asks to have the widow ordered to deliver to him all the property belonging to the succession, which he, as testamentary executor, should hold in his possession, since he is responsible for it until he renders his account. This sale must be understood to include the plantation and negroes inventoried at the Post of the Acadiens. It is more advantageous to the succession to have the Commander dispose of the effects there, as well as the movables inventoried in the city, which should be sent to him. He prays for a despatch to be issued and sent to the Commander to execute the Court's decrees without delay, because the widow, through negligence, has lost two slaves by death, which caused grave prejudice to the succession. Let the

widow be notified to appear in the said Post, either in person, or by representation, for the sale, and done, let the public calls be made and the auction be held by the Commander, and a complete copy of the said proceedings filed with the principal suit. Miro, on Postigo's advice, sends this to Feliciano Bunel.

Mrs. Laloire's answer.

Mrs. Laloire answers, saying, considering that the curator of the minors will not consent to adjudicate her late husband's estate to her at the price of its valuation, she asks to have them proceed with the sale and adjudication, so as to make clear the part belonging to her in accordance with her dowry and community interests, which she prays will be turned over to her without delay. With the funds that will be obtained by the sale of the effects, she can support herself in proper style, whereas if things remain as they are she cannot live because she has no other means except what she will derive from her husband's succession. In a secondary petition, she states that the slaves of the succession are living in Miguel Cantrelle's jurisdiction, and she prays the Court to issue the corresponding despatch authorizing him to sell the slaves, for cash, in the presence of the interested parties.

Miro's decree.

Esteban Miro rules: Let them proceed with the auction sale, for cash, of the late Luis Laloire's estate, which has been inventoried, after the public calls have been made as the law requires, in order that the sale of the slaves may have effect, which are now within the jurisdiction of the Commander of Cabanose. Let the corresponding despatch be issued, with an enclosure of this decree, so that Miguel Cantrelle may proceed, in conformity to law, to the sale of the slaves for cash. For this purpose he orders the interested parties notified, so they may be present in person, or by representation.

Sale and adjudication of the plantation and slaves.

The next entry is a copy of the proceedings for the sale and adjudication of the plantation and slaves belonging to the late Louis Jossee (Jousie) de la Loire, made at the Coast of the Acadiens, February 3 and 4, 1783. The plantation is parcelled into lots and each one sold separately. These measure four, six and a half, ten, and nineteen arpents, respectively, bringing in all 2460 pesos. The slaves bring 3540 pesos, the live stock and movables 842 pesos 1 real, amounting in all to 6842 pesos 1 real.

Inventory of the country estate.

This is followed by an inventory of Louis Laloire's estate located in the country. He died in New Orleans, March 28, 1782, and the inventory is made April 22, 1782, by Miguel Cantrelle, Lieutenant of the Armies of His Majesty and Commander of the Post of Cabanoces, Parish of Saint Jacques of the Acadiens. The estate consists of movable and immovable effects, slaves, live stock, household possessions, provisions, etc., all the above valued at

4959 piastres. The second allotment of effects sold for 497 piastres 1 real.

Certified copies sent to the city.

These certified copies, sent from the country, are presented to the Court by Francisco Broutin, with a petition asking to file them with the proceedings here, and done, deliver to him to be used for his rights. Petition granted. The curator then presents a second petition, asking to sell the Laloire estate in the city. This is sent to the widow, who consents to the sale. Governor Miro rules: Let the public calls be made as the law requires, since the consent of both parties for the sale has been obtained. The calls are made May 6, 16, and 26, 1783.

Mrs. Laloire appoints another attorney.

Mrs. Bunel-Laloire presents a certified copy of a notarial act, dated May 8, 1783, by which she appoints Pedro Bertoniére to represent her interests. This she presents, explaining again that she does not understand Spanish, and for this reason she has conferred her power of attorney upon Mr. Bertoniére, which she asks the Court to confirm, so that he may represent her in all or any proceedings up to the conclusion of this cause. Petition granted. Bertoniére then asks to have the day set for the auction of the Laloire estate located here in the city. The sale is ordered for the 27th of the current month.

The sale of the estate.

The auction sale and adjudication runs from page 87 to page 98. It begins with the sale of the two houses, continuing with the slaves, household effects, wearing apparel, etc. All are bid in by Francisco Mayronne. When the sale is finished, Broutin asks for a taxation of costs of the case to be paid by Francisco Delery, testamentary executor and guardian of the estate. Petition granted. Luis Lioteau, public taxpayer, qualifies; but before he can tax costs, Broutin again petitions asking to have Francisco Delery present his account and sworn statement within a short space of time, so as to make the partition. Postigo signs the ruling granting the petition. The certification declares that Miro so decreed, though he fails to sign.

A suit filed against the estate included.

The next document filed is a law suit entered for the year 1781, although the first petition is dated January 11, 1782. It is a case entitled Luis Boisdoré vs. Luis Laloire, Jr., to collect a debt. In the petition presented Luis Boisdoré asks for a certified copy, dated March 21, 1775, of the auction sale of the estate belonging to Nicolas Faucot (Foucault), by which he bought a plantation measuring 70 arpents front with improvements. It is adjoined on the upper side by Andres Leblanc's place and on the lower by Joseph Forest's property. Because it is necessary for him to have in his possession a title to ownership, he prays to have the escribano place a certified copy at the end of this suit, and done, deliver all to him. Alcalde



Dufossat grants this request upon the payment of due fees. The certified copy of the auction sale is dated, New Orleans, March 21, 1775, at 3 o'clock in the afternoon, and is conducted by Cecilio Odoardo, Lieutenant Governor and Auditor of War, commissioned for this proceeding. He is standing in the public office of the general and royal treasury under his charge, and in the presence of Santiago Yaquelin (Jacquelin), Francisco Broutin, and Leonardo Mazange, representing their respective parties, the effects belonging to Nicolas Foucault were inventoried, appraised, and cried, in this cause. The public crier then proceeds to offer at auction, a slave named Elena, a plantation 70 arpents front, by the usual depth, for which no title to ownership has been found, except for 40 arpents. It will be sold without obligation for security for the 30 arpents remaining. The one who will buy can not count on more than the forty arpents upon which the house has been built. This structure covers a piece of ground measuring 30 feet long by 15 feet wide. This plantation is adjoined on the upper side by Andres Le Blanc's place and on the lower by Joseph Forest's estate. When offered for sale, Luis Boisdoré bids 700 pesos, with the condition that if the title should be found for the 30 arpents, or if their ownership be proven in all, or in part, he shall have the same domination and lordship over them as he acquires upon the 40 arpents remaining. He agrees to pay the full amount of the purchase price at the end of October, of the present year, giving sufficient bond for this payment. His bid was accepted. Joseph Ducros bid 750 pesos, Boisdoré raised it to 770, Ducros offered 800, Boisdoré 810, and so these two continued to bid against each other, raising it each time a few pesos, until the plantation was finally knocked down to Boisdoré for 820 pesos.

Luis Boisdoré again petitions, saying that he sold a plantation to Luis Laloire for 800 pesos, of which he has already received 600 pesos. There still remains 200 pesos due, and though he has tried several times, he has been unable to collect this debt, although it has been due for six years. He prays to have it ordered paid within a short space of time. Panis rules: Let Luis Laloire be notified that he must come to an agreement with this party within two days, or state his reasons within the same time, with a warning of what has place in law. The last entry of this suit, which is used as a voucher, is a declaration signed by Leonardo Mazange, dated New Orleans, April 15, 1782, to the effect that Luis Boisdoré presented himself at the taking of the inventories of the estate of the late Luis De la Loire, claiming from the widow 200 pesos due as a remainder for the purchase of a plantation situated at the Post of Cabanose, which had belonged to Messrs. Foucault and Noyan, measuring 70 arpents, as appears in detail in the auction sale recorded in Andres Almonester's office. The widow delivered the 200 pesos to Mr. Boisdoré, because her husband mentioned this debt in his will. A receipt

was issued in due form for this amount, witnessed by Pedro Bertoniere and Philippe Guinault, before Leonardo Mazange.

**Vouchers.**

This law suit is followed by forty other vouchers, including a letter and a statement, to prove the amounts collected and paid out for the Laloire succession. Nine of them are signed by J. Coquelin, and are receipts for payment of tuition by Mrs. Laloire for her two sons. These vouchers are presented by Feliciana Bunel, who asks to have Luis Lioteau tax costs, so as to be able to render an account and sworn statement. Petition granted, and Lioteau draws up two tables of accounts. The first is a taxation of costs for the proceedings in the Parish of St. James, amounting to 68 pesos 4 reales. The second is for the transactions in the city, amounting to 191 pesos 5 reales.

**Account and sworn statements.**

Francisco Delery, testamentary executor and guardian of the estate proceeds to give his account and sworn statement. It reads:

**Recapitulation.**

Assets .....	20679	
Charges and deductions .....	3371	3
		<hr/>
Remainder .....	17307	5

He asks to have all interested parties ordered to abide by it.

Francisco Broutin contests this statement and gives his reckoning as:

**Recapitulation.**

Assets .....	20691	1
Charges and deductions .....	2707	
		<hr/>
Remainder .....	18950	1

He asks to have the Court order all abide by it, interposing its authority and judicial decree for this purpose. Postigo, as Governor Miro's adviser, the latter not signing, orders Broutin's petition and reckoning sent to Feliciana Bunel.

**Mrs. Laloire's answer.**

The widow answers, saying that she has received the accounting given by Francois Delery and its contestation by Francisco Broutin. She finds the latter correct and well adjusted and has no objections to make to it. Therefore, she asks its approval and to have all parties ordered to abide by it. Esteban Miro, on Postigo's advice, after reviewing the proceedings decrees: The Court approves the 20691 pesos 1 real (Broutin's statement), and the debts, and judicial expenses set down by Mr. Delery amounting to 1068 pesos, but it does not approve the 1568 pesos in Mr. Delery's account. The debts, amounting to 10,000 pesos, due

the succession will be at the charge of the tutrix to collect at the date of maturity. Besides, there will be reserved from the body of the estate 2000 pesos, as the amount assigned to the wife, which is the one-tenth part of the funds, or dowry, the deceased husband brought to the marriage, as appears in the marriage contract. There will be reserved 500 pesos, which Feliciana Bunel brought to the marriage as her dowry, besides 3609 pesos 3 reales which is the one-fifth of the estate left after the debts are paid, the legacy left by Mr. Laloire to his wife. From this one-fifth the funeral and expenses for the last illness must be paid, amounting in all to 139 pesos. This will leave as a legitimate inheritance for the two sons, 12277 pesos, or 6138 pesos 4 reales to each one. Doña Feliciana will be responsible for 847 pesos 4 reales, to whomsoever they may be due, because up to to now she has received only 40 pesos of the full amount of her dower rights.

Copy of the Laloire marriage contract.

The next document is a certified copy of the marriage contract, dated New Orleans, May 2, 1772,

between Luis Laloire, retired officer on half-pay in the service of His Most Christian Majesty, son of Claudio Laloire and Mariana La Croix Le Blanc, and Francisca (Feliciana) Bunel, daughter of Juan Domingo Bunel and Marie Theresa Chatelier. The bride brings as her dowry 2500 livres invested in a house on Orleans Street. The groom's estate consists of a plantation measuring 120 arpents front, adjoined on one side by the property of one named Paturer and on the other by Mr. Pey's place. This plantation is situated twelve leagues from the city, lower river, and he has 19 slaves employed there. He also owns a house on Bourbon Street, adjoined on one side by Simon, a free mulatto, and on the other by Mrs. Mioton. He has live stock, etc., all valued at 30,000 livres. He also possesses some wrought silver and other effects, amounting to 70,000 livres. His entire estate is valued at 100,000 livres. He gives his wife in "arras propter nupcias" (a sum of money assigned by a husband to his wife, for her maintenance after his death, which according to Spanish Law can not exceed the tenth part of his fortune) 10,000 livres, which is the tenth part of his estate in conformity to the faculties conceded by law. He mortgages his estate for the 2500 livres which his future wife brings to the marriage. Mrs. Bunel, upon giving up the house to her daughter as her dowry, reserves to herself the right to occupy one room in it for just as long as she lives. A note is added, stipulating that Luis Laloire voluntarily delivered to Luis Cornu, married to Genoveva Bunel, his sister-in-law, 250 pesos, because Maria Theresa Chatelier, Widow Bunel, has no other property now. In order that her two daughters may be equally endowed, he gives the above sum for Francisca (Feliciana) Bunel, his wife, who is not obligated for more than



the 250 pesos, as appears from the written instrument drawn up by the two brothers-in-law, dated New Orleans, this day, December 13, 1779.

**Taxation of costs.**

The last entry is a petition by Fernando Rodriguez, who became escribano in 1783, asking for a taxation of costs by the public taxer, as vacation is near. Petition granted. This ruling is dated December 17, 1783. Luis Lioteau qualifies to make the taxation, but never does so. This ends the record.\*

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\* Note: It would seem from Mr. Cantrelle's letter to Mr. Mayronne, and one of Feliciano Bunel's signatures to which she adds "Mayronne", and to the fact that Francisco Mayronne buys in the entire Laloire estate in the city, that Mrs. Widow Laloire had married him before her husband's succession was settled.—L. L. P.

(To be continued)





